

**ATTACHMENT**

**NRC STAFF POSITION  
ON GROUP I CONTENTIONS**

**NRC Staff's Position  
Concerning Utah Contention B  
(Intermodal Transfer Facility)**

**Utah 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 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. Because the ITP is an interim spent fuel storage facility, 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.<sup>1</sup>

**NRC Staff Position:**

The NRC Staff (Staff) has determined that the activities performed by PFS at the ITP are normal activities occurring during the transport of Class 7 (radioactive) hazardous materials or the storage incident thereto, and are thus covered under the Department of Transportation (DOT) regulations for shipping hazardous materials (see Title 49 of the Code of Federal Regulations), and the Commission's regulations in 10 C.F.R. Part 71 for the packaging and transportation of radioactive material, and 10 C.F.R. Part 73 for the physical protection of spent fuel in transit. Together, these DOT and NRC regulations comprise a well defined and well established regulatory scheme that provides for the safety and physical protection of spent fuel shipments from the point of origin to final destination. Thus, the absence of a Part 72 license for PFS to possess or store spent fuel at the ITP does not in any way create a "regulatory gap" or pose an unacceptable safety and health risk to workers or the public.

As currently proposed, shipments to the PFS independent spent fuel storage installation (ISFSI) would be made by multiple utilities. In making these shipments, each of these utilities would be acting as hazardous materials shipper under DOT regulations. Under DOT regulations, it is the shipper's responsibility (i.e., the originating utility) to prepare the shipping cask and its contents for shipment. This includes assuring that the shipping cask has been specifically authorized for the contents, that the package is in unimpaired condition, and that external contamination and radiation levels are met (see 49 C.F.R. § 173.475 and 10 C.F.R. § 71.87). The proposed shipments would be required under DOT safety regulations to be shipped in NRC certified Type B (accident resistant)

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<sup>1</sup> By Order of November 30, 1998, the Licensing Board amended the bases for this contention to incorporate: "(1) the new location of the proposed Rowley Junction ITP, see State Low Rail Contentions [dated September 29, 1998] at 13; (2) the assertion about the continuing viability of the ITP proposal pending BLM approval of the right of way for the Low rail spur, see *id.* at 13 n.3; and (3) the description of the ITP and equipment, per statements in the August 1998 PFS application amendment, see *id.* at 14."

shipping casks. Utility employees involved in preparing these casks for shipment would be required to receive training applicable to their specific duties on a periodic basis. The utility (as shipper) must also comply with DOT requirements for the marking and labeling of casks and the completion of proper shipping papers. Shipping papers must include a proper identification of the material shipped, appropriate emergency response information, a 24-hour emergency response telephone number where a cognizant individual can be reached, and a declaration that all applicable DOT regulations have been met. Compliance with these DOT requirements by the utilities is subject to inspection and verification by both the NRC and DOT.

In addition to DOT safety requirements, NRC regulations require that the shipper develop a physical protection system to protect shipments of spent fuel from theft or sabotage during transit. This includes prior NRC approval of the shipping route, pre-notification of state governors and the NRC, coordination with local law enforcement agencies, protection of shipment schedules, the staffing of a communications center with two hour call-ins for shipments in progress, the use of armed and unarmed escorts during shipments as appropriate under DOT and NRC regulations, and measures to reduce scheduled intermediate stops (such as might occur at the ITP). These physical protection requirements on the shipper are in effect throughout the duration of the shipment, that is, from the time it departs the utility's site until it is inspected and accepted at the PFS storage facility. Thus, any shipment passing through the ITP will be under continuous surveillance, including times when the cask may be in storage incident to transport at the ITP.

PFS has indicated that it would act as either a contract or common carrier for the proposed shipments or, alternatively, as a freight forwarder to hire a contract or common carrier on behalf of the shipping utilities. In addition, PFS has committed to complying with applicable DOT requirements, and will be required to comply therewith, if it acts as a contract or common carrier. Since PFS would be acting as a carrier or freight forwarder on behalf of the shipper while the spent fuel is in transit, including times when it is at the ITP (and therefore would not take "possession" of the spent fuel at the ITP), the responsibility for marking and labeling of casks, accuracy of shipping papers, and compliance with other DOT requirements on shippers would remain with the original shipper, i.e., the originating utilities. PFS would not be authorized to undertake any activities that would constitute termination of the shipment (such as opening or repackaging the cask, etc.) At the ITP. Further, PFS's activities at the ITP would be strictly limited to those allowed under DOT regulations for a common or contract carrier, broker, or freight forwarder.

As a carrier, PFS would be responsible for implementing DOT safety regulations for shipments, including storage incident to transport. These include assuring that the transport vehicle is properly placarded, that the shipper has properly certified the shipment, maintaining radiation control based on package transport index and separation tables, reporting incidents, and providing training for Hazmat employees. Additional requirements for carriers are located in 49 C.F.R. Parts 325 through 399. In addition, there are modal requirements that limit unnecessary delay in transit (49 C.F.R. §§ 177.800(c) and 174.14 (a)). Based on these DOT safety requirements, as well as those imposed on shippers, the NRC has exempted contract and private carriers, freight forwarders, and brokers from the need to have a possession license during transportation or storage incident thereto, except for the requirements of a general license issued to carriers under 10 C.F.R. § 70.20(a), pursuant to which they are responsible for assuring physical protection in transport.

The Commission's regulations grant a general license to carriers in 10 C.F.R. § 70.20(a), which require them to assure or receive certification from the shipper that the transportation is in accordance with the physical protection requirements of 10 C.F.R. § 73.37, and requires carriers to report safeguards events. Thus, PFS would become a general NRC licensee for purposes of assuring that physical protection is provided for ongoing shipments.

The State's claim that the ITP should be licensed under 10 CFR Part 72 is based in part on the premise that a number of casks would be present at the ITP at any given moment, making it a "de facto" storage facility, and thus vulnerable to sabotage. While it is conceivable that multiple casks could be present at the ITP in some instances, the NRC could address this by means other than licensing the ITP as an ISFSI, e.g., by imposing conditions on the shippers (the originating utilities) to require, for physical protection reasons, that shipments be staged to reduce the likelihood of multiple casks in storage incident to transit at the ITP. If unforeseen circumstances arose, ongoing shipments could be secured at intermediate points and future shipments halted. This "staging" requirement for shipments might also be accomplished by conditioning utility route approvals to require permission from PFS to begin shipment (see 10 C.F.R. § 73.37(b)(8)). Alternatively, utility route approvals could be conditioned by the NRC to require that armed guards be posted when multiple casks are present at the ITP, or such other physical protection requirements as may be appropriate.

In transit (including the ITP), the main responsibility for responding to accidents or emergencies involving radioactive materials (as with all other hazardous material shipments) resides with state and local officials. Resources available to first responders, in addition to the emergency response information required on shipping papers under DOT regulations, include DOT's "North American Emergency Response Guidebook", CHEMTREC - a continually staffed clearinghouse for emergency response information and current listing of state and Federal radiation authorities who are able to provide information and technical assistance on handling incidents involving radioactive materials, and provisions of the Federal Radiological Emergency Response Plan (FRERP). FRERP includes provisions by which the States can request and receive Federal assistance in responding to incidents or emergencies. Shippers are also required by NRC regulations to notify the NRC and governor's office (in each state through which the shipment passes) of upcoming shipments, at least 4 days prior to any shipment. This notification, can be used at a State's discretion to alert local responders to upcoming shipments.

DOT and NRC transportation safety and physical protection requirements have proved adequate to protect public health and safety for the many spent fuel shipments made over the past decade, for both rail and road shipments. These regulations provide for adequate radiation protection for occupational workers and the public during transit, protection against severe accidents (Type B casks), physical protection against potential sabotage or terrorism, as well as providing a framework for responding to incidents and/or accidents. The Staff has determined that additional regulation of the ITP under 10 C.F.R. Part 72 is not required under the Commission's regulations.

**NRC Staff Position With Respect to  
Utah Contention C: Dose Limits**

**Contention Utah C: Failure to Demonstrate Compliance With NRC Dose Limits.**

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 makes selective and inappropriate use of data from NUREG-1536 for the fission product release fraction.
2. License Application makes selective and inappropriate use of data from SAND80-2124 for the respirable particulate fraction.
3. 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.

**NRC Staff Position:**

The NRC Staff's position with respect to Utah Contention C (Dose Limits) is set forth in the "Affidavit of James Weldy and Elaine Keegan Concerning Utah Contention C (Dose Limits)," dated May 11, 1999, filed in response to the Applicant's motion for summary disposition of this contention.

**NRC STAFF POSITION ON  
CONTENTION UTAH F/ UTAH P  
(TRAINING AND CERTIFICATION OF PERSONNEL)**

**Contention:**

Training and certification of PFS personnel, including radiation protection training, 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.

**NRC Staff Position:**

A. The Applicant's Training and Certification Program

The NRC Staff (Staff) has reviewed the personnel qualification requirements and training program commitments described by Private Fuel Storage, L.L.C. (PFS or Applicant) in its Safety Analysis Report (SAR), submitted as part of its application for the PFS Facility (PFSF) and responses to Staff requests for additional information (RAIs). This review was conducted in accordance with the guidance in draft NUREG-1567 ("Standard Review Plan for Spent Fuel Storage Facilities") and applicable guidance referenced in draft NUREG-1567. On the basis of this review, the Staff has determined that the Applicant's described personnel training and certification program will comply with 10 C.F.R. Part 72, subpart I when commitments made in its responses to Staff RAIs are satisfactorily included in an update to the SAR. The basis for this determination is as follows.

Pursuant to 10 C.F.R. Part 72, subpart I, an applicant's plan and program for training and certification needs to be defined in the license application at a level of detail that provides reasonable assurance that facility personnel will be trained and qualified to perform spent fuel storage activities without undue risk to the health and safety of workers or the public. Draft NUREG-1567 provides guidance to the Staff for the acceptable level of detail of descriptions of the training program, its administration, commitments for its implementation, and the principles to be applied in the development of the training and certification program. For example, draft NUREG-1567, § 10.4.4.2 states that the type and level of training to be provided for each job description including specific training provided to specific job descriptions, must be listed. Alternately, the basis used to identify the type and level of training may be described. PFS committed to conduct training using a systems approach to training (SAT). The Staff considers the five elements of a SAT (or equivalent), as defined in 10 C.F.R. § 55.4 to be an acceptable method for training program implementation at an independent spent fuel storage installation (ISFSI).

Consistent with Draft NUREG-1567, the PFS SAR § 9.3 (Training Program) addresses the training scope, types of training (e.g., initial general employee training or job-specific training), training methods (e.g., classroom or on-the-job training), retraining frequencies, program evaluation and revision, and assignment of responsibility for program administration. In its February 10, 1999, response to the Staff's RAIs, PFS provided additional information on the methods for evaluating certified operator mastery of training objectives and pass/fail criteria. The PFSF SAR should be updated to include this information. PFS has committed to ensuring that an adequate number of trained and certified personnel will be available prior to operations and throughout the operational

life of the facility. In addition, the SAR specifies the nature of records that will be kept. The staff concludes that these commitments are consistent with guidance provided in Draft NUREG-1567, §§ 10.4.4.2 and 10.5.4, and are acceptable.

The PFS operational testing program described in SAR § 9.2.2.3 provides for the conduct of test program activities using actual equipment and procedures. The intent of this test program, in part, is to qualify personnel as a part of certification training. Sequences of operational activities from receipt of a transportation cask, to placement in storage, to preparing a cask for shipment are described. Use of operational testing as a training exercise is consistent with Staff expectations for operational readiness testing.

Based on its review of the Applicant's described training program, the Staff has concluded that the scope and description of the training program have been presented in sufficient detail to provide reasonable assurance that the criteria of 10 C.F.R. Part 72, subpart I, will be satisfied provided that commitments made in the RAI responses are satisfactorily included in an update to the SAR, and in the event that a license is issued for the PFSF.

In addition to the licensing review, Staff performs a post-licensing operational readiness inspection of the facility to assess the facility organization, the training and certification program, the preoperational testing program, the program implementing procedures, and the qualifications of individual staff members. This inspection of operational readiness (before the actual receipt of fuel) and subsequent inspections are performed in accordance with NRC Inspection Manual Chapter (MC) 2690.

**B. Qualifications of Trained and Certified Personnel**

The Staff reviewed the personnel qualification requirements specified in § 9.1.3 of the PFSF SAR and compared those qualifications to the requirements of Regulatory Guide 1.8 ("Qualification and Training of Personnel for Nuclear Power Plants") and associated ANSI/ANS standards. The regulatory guide and ANSI/ANS standards are applicable to the operating organization at a commercial nuclear power reactor. Because the PFSF is a more passive facility with significantly less complex operations than a commercial nuclear power reactor, there is a significant reduction in the size of the management staff proposed for the PFSF as compared to a reactor facility. The Staff has determined that the PFS operating organization and designation of responsibilities is acceptable, given the passive nature and operating requirements of an ISFSI such as the PFSF.

The Staff has determined that the PFS SAR provides an acceptable level of detail with respect to operator experience, instruction and training courses, examination and testing requirements, and the criteria for qualifications or revocations. While Utah Contention F asserts that PFS has not required the facility manager and operators to have prior experience in dry storage operations, this is not a regulatory requirement. Rather, plant personnel may be found to be qualified based upon training and experience with other than dry storage operations. The Applicant's minimum personnel qualification requirements are comparable to similar positions at power reactor facilities described in Regulatory Guide 1.8, and are generally equivalent to the qualification requirements that are in place at other ISFSIs, including the requirements for general managers and operators or "Certified ISFSI Specialists." The Staff concludes that the personnel qualification requirements stated in the

PFSF SAR are equivalent to those specified for similar facilities and provide reasonable assurance that operations can be performed without undue risk to the health and safety of the public.

In its February 10, 1999, response to the Staff's RAIs, PFS committed to evaluate certified operator trainee mastery of training objectives and to provide pass/fail criteria. These commitments should be reflected in a revision to the PFSF SAR. In SAR § 9.4.1.1.1, PFS committed to evaluate the physical condition and general health of personnel who are certified for operations that are important to safety. These personnel will be evaluated according to NRC Form 396 which is used to evaluate licensed operators at commercial nuclear reactors. The staff concludes that these commitments are acceptable.

In sum, the Staff has determined that PFS has provided sufficient details concerning its personnel training and qualifications to provide reasonable assurance that its training and certification program will satisfy the requirements of 10 C.F.R. Part 72, subpart I, in the event that a license is issued for the PFSF. The qualifications and certifications of the operators will be inspected and evaluated following the issuance of a license to assure regulatory compliance prior to the conduct of licensed operations at the PFSF.

#### C. Training Related to Radiation Protection

Contention Utah F/P asserts that PFS has not provided sufficient information concerning its training program to ensure that facility personnel control and limit occupational radiation exposures to levels that are as low as is reasonably achievable (ALARA).

As described above, the Staff has determined that the Applicant's training program, including the commitments made by PFS, provide reasonable assurance of compliance with the standards in 10 C.F.R. Part 72, subpart I, and applicable regulatory guidance, in the event that a license is issued for the PFSF. The Applicant's compliance with these requirements will be verified in an operational readiness inspection, prior to the receipt of fuel, consistent with MC 2690. This training program would necessarily include ALARA principles.

The Staff has compared the Applicant's proposed radiation protection training program with the requirements of Regulatory Guide 8.8, paragraph C.1.c (Training and Instruction). This training will also be performed using the SAT methods. PFS has committed in SAR § 9.2.3 (Operational Readiness Review Plan) to completing radiation protection procedures, training health physics personnel, and providing radiation postings prior to operations. The training program described in § 9.3 of the PFSF SAR includes commitments to tailor the training program to the requirements for each position and employee. As an example, the general employee training described in SAR § 9.3.2.1 addresses radiation control procedures and practices, including "the nature and sources of radiation and contamination, interactions of radiation with matter, biological effects of radiation, methods of detecting and controlling radiation and contamination, ALARA concepts, facility access and visitor controls, decontamination procedures, use of monitoring and personal protective equipment, regulatory and administrative exposure and contamination limits, and site specific hazards." The job-specific and certification training addressed in SAR § 9.3.2.2 is to include radiation detection monitoring, sampling, and survey instruments. The continuing training that will be required at least every two years is to include the topics covered in general employee training. In addition, SAR § 9.4.1.1.3 (Maintenance and Surveillance Procedures) states that "procedures

will describe the expertise or training required to perform tasks important to safety, special equipment needed, and operational controls. Any projected radiation exposure will be identified, along with the ALARA principles to be applied to minimize such exposure."

Based on the Applicant's description of its training program, the Staff concludes that the Applicant's training commitments are consistent with the ALARA training and instruction principles presented in Regulatory Guide 8.8 and provide reasonable assurance that NRC requirements related to radiation protection training and ALARA principles will be satisfied in the event that a license is issued for the PFSF.

**NRC Staff Position on  
Utah Contention G: Quality Assurance**

**Utah Contention G - Quality Assurance**

The Applicant's Quality Assurance (QA) program is utterly inadequate to satisfy the requirements of 10 CFR Part 72, Subpart G.

**NRC Staff Position:**

The NRC Staff ("Staff") understands this contention to consist of two principal subsections: (a) lack of detail in the application and (b) failure to demonstrate independence of the QA organization. The Staff's views with respect to these matters are as follows.

**A. Adequacy of the Information Provided for the QA Program.**

The Staff has reviewed the QA Program submitted by Private Fuel Storage L.L.C. (PFS or Applicant) in its Safety Analysis Report (SAR) submitted as part of its license application for an independent spent fuel storage installation (ISFSI). As indicated in Section 11.1 of the SAR, the PFS QA Program was approved by the Staff for use under 10 C.F.R. Part 71, Subpart H (Docket No. 71-0829), on September 16, 1996 (rather than November 3, 1996, as indicated in the SAR). PFS has requested that this QA Program be considered as part of its license application for the development, licensing, construction, and operation of an ISFSI to be located on the Skull Valley Indian Reservation, pursuant to 10 C.F.R. Part 72, Subpart G.

The Applicant's QA Program is described in the "Private Fuel Storage L.L.C. Quality Assurance Program Description" (QAPD), dated August 1996, as supplemented by Chapter 11, "Quality Assurance," of the SAR. Based on its review of the Applicant's QA Program, the Staff believes that the PFS QAPD contains sufficient information and detail, consistent with the requirements of 10 C.F.R. § 72.24(n) and 10 C.F.R. Part 72, Subpart G.

The Staff has re-evaluated the Applicant's QA Program in accordance with the requirements of 10 C.F.R. Part 72, Subpart G. The Staff utilized Chapter 12, "Quality Assurance Evaluation," of NUREG-1567, "Standard Review Plan for Spent Fuel Storage Facilities" (draft final report, August 1998), as guidance in conducting its review of the Applicant's QA Program. The purpose of this review, as described in Section 12.1 of NUREG-1567, is to determine whether the Applicant has defined a QA Program that, when effectively implemented, will comply with the requirements of 10 C.F.R. Part 72, Subpart G.

As stated in section 11.1.2 of the SAR, "QA Program," the Applicant's QA Program is comprised of the QA Program Description and QA Procedures. The QAPD presents the Applicant's commitments to establish and execute a QA Program that meets the requirements of 10 C.F.R. Part 72, Subpart G, and defines the framework for conducting those activities affecting quality and safety. The QAPD does not include the detailed procedures that implement the QAPD. The QA

procedures that address the commitments made in the QAPD must be developed and implemented before quality- and safety-related activities are performed.

Based on its review, the Staff has found the Applicant's QA Program to be acceptable. The Applicant's QA Program has adequately addressed all of the elements required in 10 C.F.R. Part 72, Subpart G, and follows the guidance of NUREG-1567.

As indicated in the contention, the license application does not contain the Applicant's detailed implementing procedures. The lack of such procedures in the QA Program at this time, however, does not constitute a deficiency in the application. As discussed in Section 12.1 of NUREG-1567, it is intended that the QA program for the development, licensing, construction, and operation of an ISFSI provides a high level (*i.e.*, general) description of the control of activities affecting quality. The scope of the Staff's review of an applicant's QA Program during the licensing process does not include a review of the detailed procedures that will be used to implement the QA Program. Rather, during the licensing process, the QA Program must contain the applicant's commitments to develop and implement procedures to control activities affecting quality before those activities are performed. Such commitments have been made by PFS in its QA Program.

The Staff will verify the effectiveness of QA Program implementation following the issuance of a license, during future post-licensing inspections of the facility. Through the performance of pre-operational inspections, following the issuance of a license, the Staff determines whether the procedures support the implementation of an effective QA program and whether the procedures have been implemented. Licensees are required to take timely corrective action to resolve any deficiencies identified by the Staff during its inspections of activities affecting quality. This approach to determining the effectiveness of a QA Program is based on licensee performance rather than just the quality of written documents.

**B. Independence and Responsibilities of the QA Organization.**

The State of Utah essentially makes four assertions regarding the independence and responsibilities of the QA organization, as follows: (a) the SAR fails to describe the interrelationships between the Architect/ Engineer (A/E) group and the QA Committee, and how the relationship enhances QA; (b) the SAR fails to identify who is responsible for pre-licensing day to day activities, costs, or schedules, and how the organizational structure ensures QA in quality- and safety-related activities; (c) the SAR fails to provide a meaningful description of licensing, construction and operational functional responsibilities, interrelationships, and authorities for performing quality- and safety-related activities; and (d) the SAR fails to provide independent oversight of the QA program or objectivity in establishing QA procedures, in that it allows individual managers to determine the adequacy of quality assurance in their programs.

Based on its review of the Applicant's QA Program, the Staff believes that the PFS QA Program provides sufficient information regarding the independence of the QA organization, and that the organization is consistent with the requirements of 10 C.F.R. §§ 72.24(n) and 72.142.

1. Relationship Between the A/E Group and the QA Committee.

Section 11.1.1 of the QAPD, "Organization," states: "The A/E is responsible for performing design and design control activities in accordance with an approved QA program. . . . The QA Committee, through continuing involvement, evaluations, assessment, surveillances, and audits, is responsible for ensuring that the [PFS] QA policies and objectives are met by the [PFS] . . . ." In essence, the QAPD states that the A/E performs design activities and the QA Committee performs evaluations, surveillance, and audits of those design activities to ensure compliance with applicable design procedures.

The Staff determined that the inter-relationship between the A/E and the QA Committee is appropriately described in Section 11.1.1 of the QAPD and that the interrelationship supports the conduct of an effective Quality Assurance program.

2. Identification of Individual Responsibilities.

Section 9.1.1.2.1 of the SAR, "Pre-licensing Organization," states: "Prior to licensing, the oversight of design and other project work activities rests with the committees of the Board of Managers and utility-provided [PFS] staff, described in Section 9.1.1.4." Section 9.1.1.4, "Technical Staff," of the SAR states: "The [PFS] technical staff . . . members support the review of activities performed by the A/E. . . . They also provide review of 'Request for Proposal' specifications to ensure transportation, dry transfer equipment, and on-site transfer equipment properly interface with the facilities of the individual nuclear power plant licensees." Section 9.1.1.1, "PFSLLC Functions, Responsibilities and Authorities," of the SAR states: "The Board of Managers is responsible for . . . [e]nsuring that the QA Program is properly established, documented, approved, and effectively implemented . . . and that the [QA] Committee/staff performs its designated oversight function and reports to the Board on matters affecting quality. The Board will assess the adequacy of the [QA] Program implementation on a regular basis."

Based on its review of the above-mentioned sections of the SAR, the Staff has determined that the responsibilities for pre-licensing activities are adequately defined and that the organizational structure provides reasonable assurance of effective QA in quality-related activities.

3. Description of Functional Responsibilities, Interrelationships and Authorities.

Chapter 9 of the SAR, "Conduct of Operations," describes the organizations that will be established during licensing, construction, and operation of the ISFSI. Chapter 9 also provides the general responsibilities and relationships of these organizations.

Chapter 9 of the SAR provides an outline of the organization that will be established for licensing and construction of the ISFSI. Section 9.1.1.2.2 of the SAR, "Licensing and Construction Organization," provides a description of the Licensing and Construction Organization, as shown in Figure 9.1-2 of the SAR, that will perform oversight of PFS ISFSI licensing and construction activities. The SAR states that the Board of Managers will monitor construction activities; that a Project Manager (PM) who reports to the Board of Managers, along with a construction engineer, a procurement specialist, and other specialists, will provide oversight of the A/E, contractors, and vendors. In addition, the SAR states that the A/E and the construction General Manager, with the

assistance of PFS administrative and engineering staff, will perform the oversight of construction activities on a daily basis. In addition, paragraph 11.1.1 of the SAR, "Organization," states: "The QA Committee is an independent organization reporting to the Board of Managers and shall not be responsible for day to day activities, costs, or schedules." The SAR further states that QA will ensure that structures, systems, and components (SSCs) important to safety are designed, procured, fabricated, and tested in accordance with the QA Program.

Chapter 9 of the SAR also provides an outline of the organizations that will be established for operation of the ISFSI. Section 9.1.1.2.3 of the SAR, "Operational Organization," states that, following construction of the ISFSI, the General Manager/Chief Operating Officer (GM/COO), who reports to the Chairman of the Board, will be the chairperson for the Operations Review Committee (ORC). Section 9.1.1.2.3 also states that representatives from ISFSI functional areas will constitute the ORC who will perform on-site safety assessments and reviews of operational activities. Section 9.1.2.1.1 of the SAR, "Safety Review Committee," states that the GM/COO will also be the Chairperson of the Safety Review Committee (SRC); and that representatives from QA, Radiation Protection, Nuclear Engineering, and Maintenance/Operations will constitute the SRC, who will review and approve activities regarding safety, changes to SSCs important to safety, tests, QA audits, changes to specifications or the license, and violations of license requirements. The ORC and SRC will perform operational assessments and safety oversight of ISFSI operations. Section 9.1.2.1 of the SAR, "On-Site Organization," describes staff composition and job functions for the operation of the ISFSI.

With respect to safety-related activities, the SAR describes organizations which control various aspects of the ISFSI including engineering and design, QA, fuel accountability, maintenance, radiation protection, training, operations, and decommissioning.

Based on its review of the SAR, the staff has determined that the Applicant has provided an adequate description of the licensing and construction, and operational functional responsibilities, interrelationships, and authority for performing quality and safety related activities.

#### 4. Independence of the QA Program.

Section 2.0, "Quality Assurance Program," of the Applicant's August 1996 QA Program states: "The QA program shall be reviewed at established intervals to assure its adequacy and status and the program is being effectively implemented. Management of other organizations participating in the [QA] program shall regularly review the status and adequacy of that part of the program which they are executing." These requirements in the PFS QA Program meet the requirements of 10 C.F.R. 72.144, "Quality assurance program."

It is entirely appropriate for an applicant's line organizations to review the adequacy and quality of their program, in light of QA audit results. The QA organization is responsible for performing audits of the activities affecting quality to determine the adequacy of the implementation of the QA program. The audit results are provided to the management of the organizations that were audited. The management of the organizations that were audited do not determine, but rather review, the status and adequacy of that part of the QA program in which they are performing quality related activities.

Section 1.0, "Organization," of the August 1996 PFS QA Program states: "[QA] is responsible for establishing [the QA] Program as well as determining the effective implementation by performing audits." Section 18.0, "Audits," of the August 1996 PFS QA Program states: "Audits shall be performed . . . by . . . personnel having no direct responsibility in the area audited. Audits . . . shall be reviewed with supervision responsible for the area audited who shall take necessary action to correct reported deficiencies. Audit results shall be . . . reported to the management having responsibility in the area audited. Deficiencies or nonconformances . . . shall be . . . brought to the attention of the appropriate management personnel." Section 16.0, "Corrective Action," of the August 1996 PFS QA Program states: "For significant conditions adverse to quality, the cause of the condition and corrective action necessary to prevent recurrence shall be identified, implemented, and then followed-up to verify corrective action effectiveness . . . . Appropriate levels of management will be notified of significant conditions adverse to quality and the disposition of these conditions."

In addition, paragraph 11.1.1 of the SAR, "Organization," states: "The QA Committee is an independent organization reporting to the Board of Managers and shall not be responsible for day to day activities, costs, or schedules." SAR sections 9.1.1.2.1, "Pre-licensing Organization," 9.1.1.2.2, "Licensing and Construction Organization," and 9.1.1.2.3, "Operational Organization," describe these three organizations and the functional responsibilities of their members. The corresponding organizational charts depicted in Figures 9.1-1, 9.1-2, and 9.1-3 show the QA Organization as having sufficient organizational freedom and direct access to the levels of management necessary to perform their respective QA functions.

Based on its review of these portions of the Applicant's QA program, the Staff has determined that the Applicant's organizational structure assures that audits are performed by personnel independent of the activity being audited, and that responsible management regularly reviews the status and adequacy of that part of the QA Program which they are executing, as is appropriate.

**NRC STAFF'S POSITION ON CONTENTION  
UTAH K / CONFEDERATED TRIBES B  
(CONSIDERATION OF CREDIBLE ACCIDENTS)**

**CONTENTION:**

The Applicant has inadequately considered credible accidents caused by external events and facilities affecting the ISFSI and the intermodal transfer site, including the cumulative effects of the nearby hazardous waste and military testing facilities in the vicinity and the effects of wildfires.

**NRC Staff Position:**

The NRC Staff (Staff) herein states its position with respect to all issues raised in this contention concerning the independent spent fuel storage installation (ISFSI) application submitted by Private Fuel Storage, L.L.C. (PFS or Applicant), other than aircraft crashes and munitions testing at the Utah Test and Training Range. The following issues are addressed herein:

1. Engine testing and storage at the Tekoi Test Facility
2. Hanging bombs from military aircraft
3. Explosives testing and storage
  - Tekoi Test Facility
  - Dugway Proving Grounds (conventional weapons)
4. X-33 hydrogen powered space plane
5. Aircraft crash and hazardous materials at the Intermodal Transfer Point (ITP)
6. Radiation, Chemical Agent, and Hazardous Material Storage
  - Chemical and biological agent testing and storage at Dugway Proving Grounds
  - Transportation of Chemical Agents and Hazardous Material Along Skull Valley Road
  - Department of Defense Chemical Weapons Incinerator
  - Aptus Hazardous Waste Incinerator
  - Laidlaw Hazardous Waste Incinerator
  - Storage of Chemical Weapons at Tooele Army Depot
  - Envirocare of Utah Low-Level Waste Disposal Facility
7. Fires External to the Facility

These subissues are addressed as follows.

1. Engine testing and storage at Tekoi Test Facility

The Tekoi Test Facility is located at a distance of 2.5 miles from the PFS ISFSI. The Hickman Knolls, with an elevation of approximately 4873 ft, is situated directly between the PFS ISFSI (approximate elevation of 4465 ft) and the Tekoi Test Facility (approximate elevation 4600 ft). The distance between the facilities and the approximately 200 ft high ridge separating them would preclude any credible safety hazard from an improperly secured rocket engine. Accordingly, this issue does not state a credible hazard for the PFS facility.

2. Hanging Bombs

The probability of a hanging bomb impacting the facility is addressed by the Applicant in its response to the Staff's second round Requests for Additional Information (RAIs). The Applicant's analysis took into account the average number of training flights per year, the number of flights utilizing live ordnance, the paths of the flights and the likelihood of failure of the release mechanisms. The information showed that due to the lower number of flights with failed releases (only five hung ordnance recoveries in 1998 giving a probability of one in about two to three hundred sorties, as set forth in the Applicant's response to second round RAIs) and the flight paths taken by an aircraft with hung ordnance (approach to Michael Army Air Field is from the northwest, avoiding Skull Valley) that this scenario is not credible. The Staff has determined that the Applicant's analysis is acceptable and that this issue does not state a credible hazard for the PFS facility.

3. Explosives Testing and Storage

The explosives testing performed at the Tekoi Test Facility typically requires between 10 and 100 pounds of explosive per test, according to the information given in the basis for this contention. In contrast, the explosion analysis presented in section 8.2.4 of the Applicant's Safety Analysis Report (SAR) considers the effects of an explosion of 50,000 pounds of explosive at a distance of 1.9 miles from the Canister Transfer Building and 2 miles from the nearest storage pad, and found no adverse impact to the facility. Due to the amount of explosives in question and the distance involved (2.5 miles between the PFS ISFSI and the Tekoi Test Facility), the already analyzed condition is bounding. It is concluded therefore, that an explosion at the Tekoi Test Facility would have no adverse impact on the PFS ISFSI. The Staff has determined that the Applicant's analysis is acceptable and that this issue does not state a credible hazard for the PFS facility.

The Department of Defense (DOD) has issued DOD-6055.9-STD, DOD Ammunition and Explosives Safety Standards (1997). This document establishes uniform safety standards applicable to ammunition and explosives, to associated personnel and property and unassociated personnel and property exposed to the potential damaging effects of an accident involving ammunition and explosives during their development, manufacturing, testing, transportation, handling, storage, maintenance, demilitarization and disposal. According to the siting criteria given in the DOD standard, the location of the proposed PFS site in relation to both the Tekoi Test Facility and Dugway Proving Grounds ensures against unacceptable damage and injuries at the PFS ISFSI in the event of an incident. The standard provides a minimum acceptable distance for both inhabited buildings and public traffic routes based on the quantity of explosive. For the maximum allowed quantity of explosive at one site (500,000 lb) the distances are 3,970 ft to an inhabited building and 2,380 ft to a public traffic route. Based on this criterion and the distances involved between the Dugway Proving Grounds and the PFS ISFSI (approximately 80,000 ft), it is concluded that an accidental explosion at the Dugway Proving Ground would have no adverse impact on the PFS ISFSI. Accordingly, this issue does not state a credible hazard for the PFS facility.

4. X-33 Hydrogen Powered Space Plane

The X-33 space plane is proposed to land at the Dugway Proving Grounds. The flight path for this aircraft is not planned to go over the PFS ISFSI site, according to information provided in the report prepared by Brigadier General James L. Cole, Jr., "Risk Assessment of Credible Aircraft or Missile

Accidents Impacting Private Fuel Storage LLC Independent Spent Fuel Storage Installation" (June 3, 1999). An accident involving a crash landing of the X-33 at Dugway would not have an impact on the PSF ISFSI due to distance from the site and the intervening Cedar Mountain range. Further, the distances involved (> 5 statute miles) and the number of anticipated flights per year (< 1000) would preclude evaluation per NUREG-0800. Finally, the test program consists of five flights over a six-month period starting in December 1999, and is expected to be concluded before the PFS facility is operational. Consequently, the X-33 plane crash is not a credible scenario that could adversely impact the PFS facility.

5. Aircraft crash and hazardous materials at the ITP

The Intermodal Transfer Point (ITP) at Rowley Junction, which was listed among the bases for this contention, is no longer being considered by PFS; rather, PFS has amended its application to propose an intermodal transfer facility to be located 1.8 miles west of Timpie, Utah. In any event, the Staff has determined that the intermodal transfer facility is not subject to licensing under 10 C.F.R. Part 72, and therefore a hazard analysis for that facility is not required under 10 C.F.R. Part 72.

6. Radiation, Chemical Agents and Hazardous Materials Releases

An offsite accident involving chemical or biological agents does not have a mechanism for initiating a release from the facility or compromising the integrity of the confinement barrier of the storage casks. The assessment of risk is based on the probability per year times the resultant doses. Since no radioactive release would occur as a result of an offsite event specified in the contention, the probability of occurrence of an external event with no potential to initiate a release from the facility is not important – no dose would result. Therefore, the cumulative risk is not affected. In sum, this issue does not state a credible hazard for the PFS facility.

7. Fires External to the Facility

Wild fire is a potential in the Skull Valley Area. The Applicant's response to the Staff's second round of RAIs addressed the likelihood and consequences of a wild fire impacting the PFS ISFSI. The Applicant's response showed that the impact to the facility would be negligible due to lack of flammable material in the areas surrounding the casks and site layout. The storage casks are located on isolated concrete pads with no flammable material stored in the proximity of the casks to maintain a fire on the site (except a small amount of insulation for electric wires to be used by temperature monitoring instruments). The information provided by the Applicant showed that a fire break of sufficient size exists at the facility to prevent a wild fire from directly impacting the cask storage area. There would not be a potential for direct flame impingement on the casks. The fire analyses presented for the casks in the SAR (sections 4.2.1.5.1 and 4.2.2.5.1) are sufficient, as per NUREG-1567 (section 15.5.2.4), to demonstrate negligible impact from a wild fire for an extended duration. In addition, the Applicant's response to the second round of RAIs also states that the fire brigade may be called out, depending on the severity and location of a wild fire.

In sum, the Applicant has provided sufficient analyses to demonstrate that any credible external fire event could not initiate a release from the facility, and is therefore not a nuclear safety issue. Accordingly, this issue does not state a credible hazard for the PFS facility.

**NRC Staff Position With Respect to  
Utah Contention 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."

**NRC Staff Position:**

**A. Probable Maximum Flood**

Subsequent to the admission of this contention, the Applicant re-evaluated the Probable Maximum Flood (PMF) to incorporate a regional flood analysis as part of the site flood assessment. An assessment was performed that determined that the PMF from the 270 square mile drainage basin tributary to the site will be approximately 85,000 cubic feet per second (cfs) based upon a general storm analysis. The 85,000 cfs discharge will be conveyed from the south to the north toward the Great Salt Lake. Flood waters will overtop the proposed access road and flow northerly immediately east of the Private Fuel Storage Facility (PFSF). The flood water surface elevation will be lower than the pad elevations and will not impact the PFSF with the proposed structures in place.

A further assessment was performed that determined the PMF for a sub-basin of approximately 64 square miles located southwest of the site to be approximately 102,000 cfs resulting from a thunderstorm analysis. The flood waters will overtop the proposed railroad embankment, flow west of the PFSF site and then flow northerly toward the Great Salt Lake. The flood water surface elevation of the sub-basin PMF will be lower than the pad elevations and will not impact the PFSF.

The Staff has reviewed the Applicant's PMF analysis and concurs with the flood impact assessment. The Applicant's revised analysis takes into account an appropriate drainage basins as stated above, and employs an appropriately conservative methodology to evaluate the PMF. The regional and local PMF conditions presented by the Applicant, as revised, should not impact the operation or safety of the PFSF site. Accordingly, the Staff has concluded that the Applicant's revised PMF analysis complies with applicable Commission requirements, that it satisfies 10 C.F.R. §§ 72.98 and 72.24(d)(2), and that design structures important to safety will not be adversely affected by the PMF.

**B. Additional Site Structures**

The Applicant proposes to construct a diversion berm immediately upstream to the PFSF site and a berm (extending south to north) immediately east and south of the PFSF site, perpendicular to the access road. The heights of the berms are to extend to the PMF water surface elevations plus one foot of additional freeboard. The railroad embankment, the PFSF site berm, the access road, and the east road berm comprise an integral structure to prevent flood waters from entering the site and transporting contamination. The structures are to be sited and designed to prevent flood waters from the regional flood (flowing east of the PFSF site) from combining with the flood waters from the localized sub-basin southwest of the PFSF site.

The Applicant performed an analysis evaluating the potential safety hazards resulting from a breach of any of these additional structures. For example, should the access road or railroad embankment breach, flood waters will concentrate at the breach site, concentrate in the conveyance channel, and reduce the flood impact potential on the PFSF. The berm located immediately upstream and adjacent to the PFSF will include erosion protection. Flood waters do not contact the upstream face of the berm, therefore a breach of the berm is not expected. The berm is also situated such that the backwater is located west of the PFSF site along the railroad embankment.

The Applicant acknowledges that should the PMF event occur, the access road may potentially breach, temporarily disrupting access to the site. However, the proposed structures as designed will eliminate potential flood water impacts to the PFSF site. Further, pad elevations extend above the flood water surface elevation in all flood scenarios thereby leaving the waste containers out of the flow. Based upon the regional flood hydrograph, access to the site should be quickly restored. Therefore, the breach of a diversion berm and a temporary disruption of site access due to a PMF event should not pose a safety hazard at the PFSF.

**NRC Staff Position With Respect to  
Utah Contention N: Flooding (ITP)**

**Utah Contention 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.

**NRC Staff Position:**

The Applicant's August 28, 1998, revision to its license application indicates that the location of its proposed intermodal transfer point (ITP) has been changed. In contrast to the Applicant's initial proposal to construct the ITP at Timpie, Utah, the new site is identified as being located 1.8 miles west of Timpie (Safety Analysis Report, § 1.4, at 1.4-1). Similar information was provided by the Applicant in its submittals to the U.S. Bureau of Land Management (BLM), as part of its application for a right-of-way over public lands administered by BLM.

The Applicant's February 18, 1999 response to the Staff's Requests for Additional Information (RAIs) indicates that the ITP will be "located within an elevated area that shows no signs of periodic flooding"; that "there are lower elevation areas to both sides of the proposed site, however, they will not be impacted"; and that the ITP "will be built within the upland area and connect immediately to the frontage road without affecting the nearby mudflat areas" (Response to RAI 10-9). The Applicant has not provided any specific information, maps or drawings that would indicate the elevations at the relocated ITP or the exact distance of the ITP from the Great Salt Lake, in its submittals to either the NRC or BLM, nor is there any factual basis to compare those elevations with the Great Salt Lake's stated historic high of 4211.85 feet (1986). However, as a result of the change in the ITP site location, any factual basis that may have existed for Utah Contention N no longer applies.

Further, inasmuch as the Staff has determined the ITP is not subject to licensing under 10 C.F.R. Part 72, there is no regulatory basis for requiring that specific safety information be provided with respect to these matters, or that the ITP must be protected against flooding under Part 72 requirements.

**NRC Staff Position Concerning  
Utah Contention 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 or the transfer facility in that:

1. PFS has not adequately described the ITP, the activities conducted there, or the area near the ITP in sufficient detail to evaluate the adequacy and appropriateness of the emergency plan.
2. PFS does not address response action, emergency information dissemination, or emergency response training programs for accidents at the ITP.
3. PFS has not adequately described the means and equipment for mitigation of accidents because it does not have adequate support capability to fight fires onsite.

**NRC Staff Position:**

**A. Emergency Planning for the Intermodal Transfer Point (ITP)**

As set forth in response to Utah Contentions B and R, in the Staff's response to contentions dated December 24, 1997, the Applicant's proposal to construct and utilize an Intermodal Transfer Point (ITP) for the transfer of spent fuel from rail cars to heavy haul transport vehicles does not warrant inclusion of the ITP in the emergency plan for the Applicant's proposed Independent Spent Fuel Storage Installation (ISFSI). The ITP is not part of the ISFSI facility, and need not be treated as such in the Part 72 license application. Potential events which could result in the release of radioactive materials from a shipping cask at the ITP are subject to regulations concerning the transportation of radioactive materials, under 10 C.F.R. Part 71 and Department of Transportation (DOT) regulations such as 49 C.F.R. Part 172.

**B. Adequacy of Information Contained in the Emergency Plan**

The Staff has reviewed the Applicant's Emergency Plan, as supplemented by the Applicant's February 10, 1999 responses to the Staff's Requests for Additional Information (RAIs), and has determined that upon revision of the Plan to incorporate the information provided in the Applicant's RAI responses, the Plan complies with applicable NRC regulatory requirements and guidance documents, and provides the information required under 10 C.F.R. § 72.32. Accordingly, the Staff has determined that the Applicant's emergency plan, as supplemented by the Applicant's RAI responses, is adequate.

With respect to the specific issues raised in this portion of the contention, the Staff's views are as follows:

1. The Applicant's Emergency Plan meets the requirements of 10 C.F.R. § 72.32(a)(5), in that it adequately describes the means of mitigating the consequences of each type of accident, including the protection of onsite workers, and adequately describes the program for maintaining associated equipment. The Emergency Plan, as supplemented by the Applicant's RAI responses, adequately addresses each of the areas set forth in NUREG-1567, which provides detailed guidance on the elements of an acceptable program. These areas include:
  - Limiting Actions: Including the means and equipment for limiting the consequences of each type of accident identified in the plan.
  - Onsite protective actions: Including a description of the nature of onsite protective actions and the criteria for their implementation.
  - Emergency Response Equipment and Facilities: Including a description of onsite equipment and facilities designated for use during emergencies.
  
2. The Applicant's Emergency Plan does not include emergency plan implementing procedures (EPIPs). This does not constitute a deficiency in the Plan, however, since applicable NRC regulations (10 C.F.R. § 72.32) and regulatory guidance documents (*i.e.*, Regulatory Guide 3.67 ("Standard Format and Content for Emergency Plans for Fuel Cycle and Material Facilities") and NUREG-1567 ("Standard Review Plan for Spent Fuel Dry Storage Facilities")) do not specify that EPIPs are to be submitted with an ISFSI license application. Accordingly, EPIPs are generally not submitted upon the submission of an applicant's emergency plan. The Staff reviews the adequacy of a facility's EPIPs subsequent to licensing, in an inspection of the facility during initial operations and periodically thereafter.

C. Means and Equipment for Fighting Fires Onsite.

The Staff has reviewed the Applicant's description of its onsite fire fighting capability and equipment, as set forth in the Applicant's Safety Analysis Report (SAR) and Emergency Plan. On the basis of its review, the Staff has determined that the Applicant's description of its onsite fire fighting capability and equipment is adequate.

The Applicant's Emergency Plan (as supplemented by the Applicant's RAI responses) indicates that Facility Fire Brigade members will receive training in methods of controlling fires under accident conditions in accordance with Fire Protection Procedures, search and rescue, first aid, and procedures for handling and treating contaminated and injured personnel. Additional training will be provided on operation of the fire trucks and ambulance. Details concerning the actual training to be received by such persons may be contained in the facility's training program documentation, which is not required to be submitted or evaluated as part of the emergency plan or to be evaluated prior to licensing of the facility. The adequacy of the Applicant's procedures and training programs will be evaluated by the Staff during its post-licensing operational inspections of the facility.

The Applicant's Emergency Plan establishes that fire protection systems will be tested and operational (including fire truck, fire pumps, and sprinkler systems), fire personnel will be trained and available, and fire drills will be performed and determined acceptable.

The operability of the Applicant's fire protection systems (including fire truck, fire pumps, and sprinkler systems), the adequacy of training to be received by its fire brigade, and the results of fire drills that are performed by PFS, will be evaluated by the Staff during its post-licensing operational inspections of the facility.

**NRC STAFF POSITION ON  
CONTENTION SECURITY-A**

**UTAH SECURITY-A -- Security Force Staffing**

**CONTENTION:** The Applicant has failed to establish a detailed plan for security measures for physical protection of the proposed ISFSI as required by 10 CFR § 72.180, including failure to demonstrate that it has adequate staffing capability to cope with or respond to safeguards contingency events.<sup>2</sup>

**NRC Staff Position:**

The Applicant's June 8, 1999 revision of its Safeguards Contingency Plan designates the Tooele County Sheriff's Office to serve as the LLEA. Attached to the Safeguards Contingency Plan is a Cooperative Law Enforcement Agreement between Tooele County, the Bureau of Indian Affairs and the Skull Valley Band of Goshute Indians (approved as to form on August 7, 1998), which authorizes and commits the Tooele County Sheriff's Office to provide law enforcement services on the Skull Valley Band reservation. The Applicant has provided documentation showing that the Cooperative Law Enforcement Agreement was ratified by resolution of the Tooele County Board of Commissioners on September 1, 1998. Accordingly, an approved cooperative law enforcement agreement has been submitted, providing assurance that the Tooele County Sheriff's Office can act as the LLEA for the PFS facility.

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<sup>2</sup> By Memorandum and Order of August 5, 1998, the Licensing Board admitted Contentions Security-A and Security-B on the issue of whether the Tooele County Sheriff's Office can act as the designated LLEA "because the alleged failure to comply with the requirements of Utah Code Ann. section 11-3-5 regarding approval of the June 1997 agreement arguably would deprive the sheriff's office of law enforcement authority on the Skull Valley Band reservation." *Private Fuel Storage, L.L.C.* (Independent Spent Fuel Storage Installation), LBP-98-17, 48 NRC 69, 76 (1998).

**NRC STAFF POSITION ON  
CONTENTION SECURITY-B**

**UTAH SECURITY-B -- Equipment and Training**

**CONTENTION:** The Applicant has not described the type or location of security equipment available to security force personnel, nor has the Applicant described adequate training for fixed site guards or armed response personnel.

**NRC Staff Position:**

See the Staff's response to Contention Security-A, set forth above.

**NRC STAFF POSITION ON  
CONTENTION SECURITY-C**

**UTAH SECURITY-C -- Local Law Enforcement**

**CONTENTION:** The Applicant has not met the requirements of 10 CFR Part 73, App. C, Contents of the Contingency Plan , Law Enforcement Assistance.

**NRC Staff Response:**

As discussed in response to Contention Security-A above, the Applicant has specified the LLEA to be the Tooele County Sheriff's Office, and has demonstrated the LLEA's willingness and authority to respond to events at the PFS site, by providing a copy of the August 1998 Cooperative Law Enforcement Agreement and incorporating that agreement in the Applicant's Physical Protection Plan. In addition, the Applicant revised its Physical Protection Plan to include an armed on-site response force. Chapter 9 of the Safeguards Contingency Plan discusses the relationship between the Applicant and the LLEA regarding response and response liaison.

The Staff has concluded that the LLEA can provide adequate response when coupled with the increased delay provided by the additional onsite capabilities. The onsite capability should assure there will be no loss of control of the facility while awaiting the arrival of the designated offsite LLEA. The Staff's inspections will verify that the law enforcement agreement is maintained current. In sum, the Staff has determined that the Applicant's security plans, as revised, contain adequate provisions regarding the LLEA.

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-ISFSI  
 )  
(Independent Spent )  
Fuel Storage Installation) )

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S STATEMENT OF ITS POSITION CONCERNING GROUP I CONTENTIONS" in the above captioned proceeding have been served on the following through deposit in the Nuclear Regulatory Commission's internal mail system, or by deposit in the United States mail, first class, as indicated by an asterisk, with copies by electronic mail as indicated, this 15th day of June, 1999:

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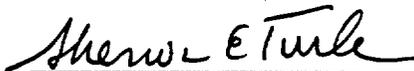
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