June 11, 1999

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)	)	

APPLICANT'S MOTION FOR SUMMARY DISPOSITION OF UTAH CONTENTIONS F & P – TRAINING AND CERTIFICATION

Applicant Private Fuel Storage L.L.C. ("Applicant" or "PFS") files this motion for summary disposition of Board Contention 4, "Utah F/Utah P – Inadequate Training and Certification of Personnel," ("Utah F&P") pursuant to 10 C.F.R. § 2.749. Summary disposition is warranted on the grounds that there exists no genuine issue as to any material fact relevant to the contention and, under the applicable Commission regulations, the Applicant is entitled to a decision as a matter of law. This motion is supported by a statement of material facts, an affidavit from Michael Ladd, and related exhibits, and the deposition of the State designated witness for training.

I. STATEMENT OF THE ISSUES

On April 22, 1998, the Atomic Safety and Licensing Board ("Licensing Board" or "Board") admitted Utah F&P. Private Fuel Storage, L.L.C. (Independent Spent Fuel

Storage Installation), LBP-98-7, 47 NRC 142, 192 (1998). The contention, as admitted, asserts that:

> 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.

Id. at 252. In admitting the contention, the Board limited its scope concerning radiation protection training to the description of "a training program that insures all personnel who direct activities or work directly with radioactive materials or areas are capable of evaluating the significance of radiation doses." Id. at 194.[1]

The Applicant moves for summary disposition of Utah F&P on the grounds that no genuine dispute remains concerning any facts material to the adequacy of the PFS training program, and that PFS is entitled to judgment as a matter of law.

II. PFS IS ENTITLED TO SUMMARY DISPOSITION OF UTAH F&P

PFS has set forth the relevant law governing summary disposition at some length in its first motion for summary disposition, and the legal basis provided in that motion is incorporated by reference herein. See Applicant's Mot. Summ. Disp. Utah C at 4-16 (April 21, 1999). The State may file affidavits purporting to contain expert opinions in opposition to this motion. Therefore, the legal requirements concerning such, id. at 10-15, will be particularly relevant here. These requirements include 1) demonstration of the

[1] Utah F was also admitted "with the caveat that the second portion of the contention's basis concerning physical and mental condition of operators has been resolved/withdrawn." Id. at 188.

affiant as an expert,[2] and 2) an explanation of facts and reasons in the affidavit supporting the affiant's expert's opinion.[3] An affidavit made on "information and belief" is insufficient,[4] as are mere unsupported conclusions.[5] As the Supreme Court has held, reliable expert opinion must be based on "more than subjective belief or unsupported speculation." Daubert v. Merrell Dow Pharm., Inc., 509 U.S. 579, 590 (1993).

Moreover, based on deposition testimony of the State's witnesses, PFS does not believe that the State's identified witness on Utah F&P can meet these requirements. An expert's education or experience must pertain particularly to the matter to which he or she testifies. E.g., Eagleston v. Guido, 41 F.3d 865, 874 (2d Cir. 1994), cert. denied, 516 U.S. 808 (1995) (must embrace "specific body of scientific or technical expertise pertinent" to the issue in question).[6] Thus, for example, one could not testify to the adequacy of an NRC training and certification program merely by being a physicist or a nuclear engineer.

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[2] Sullivan v. Rowan Cos., 952 F.2d 141, 144 & n.6 (5th Cir. 1992). A licensing board will determine an affiant's qualifications under Rule 702 of the Federal Rules of Evidence. Florida Power & Light Co. (Turkey Point Nuclear Generating Plant, Units 3 and 4), ALAB-950, 33 NRC 492, 501 n.5 (1991). Under Rule 702, non-expert testimony regarding "matters which are beyond the realm of common experience and which require the special skill and knowledge of an expert" is not admissible. Randolph v. Collectramatic, Inc., 590 F.2d 844, 846 (10th Cir. 1979).

[3] See Mid-State Fertilizer Co. v. Exchange Nat'l Bank, 877 F.2d 1333, 1339 (7th Cir. 1989); Carolina Power & Light Co. (Shearon Harris Nuclear Plant, Units 1 and 2), LBP-84-7, 19 NRC 432, 447 (1984).

[4] Columbia Pictures Indus., Inc. v. Professional Real Estate Investors, Inc., 944 F.2d 1525, 1529 (9th Cir. 1991), aff'd on other grounds, 508 U.S. 49 (1993).

[5] Public Service Co. of New Hampshire (Seabrook Station, Units 1 and 2), LBP-83-32A, 17 NRC 1170, 1177 (1983).

[6] To be reliable, an expert opinion must have a sufficient basis in "the knowledge and experience of [the relevant] discipline." Kumho Tire Co. v. Carmichael, No. 97-1709, 119 S. Ct. 1167, 1999 U.S. LEXIS 2189, at *3, 19 (March 23, 1999).

Dr. Marvin Resnikoff, whom the State submitted as the only person it expects to testify as a witness on Utah F&P,[7] lacks the experience or credentials to be considered an expert in NRC training programs. In his deposition, Dr. Resnikoff stated: "I haven't actually, you know, been involved in the training of those workers" at nuclear power plants or dry storage facilities. Resnikoff Dep. at 36. Nor has he ever reviewed a training program for "this type of facility" (an ISFSI). Id. at 41. His only exposure to any training program at any NRC facility was his review of the training manual for the West Valley facility more than twenty years ago. Id. at 37, 43. He has never participated in an NRC training program. Id. at 36. He has no publications on training or certification programs. Id. at 44. He has never reviewed any NRC Staff guidance on training and indeed was unaware that any even existed. Id. at 40-41.

In short, Dr. Resnikoff has no training, experience, or education in the preparation or conduct of NRC training programs; he appears to have reviewed only one program in his entire career, "a long time ago." Id. at 37. Therefore, he simply is not qualified as an expert in training and certification, and thus any opinion he may render in regards to the PFS training program would be mere lay speculation, which this Board should reject as inadmissible.

PFS submits that the lack of expertise pertinent to NRC training programs possessed by its designated witness renders the State incapable of refuting the showing of the

[7] "State of Utah's Amended Responses to Applicant's First Set of Formal Discovery Requests," (Apr. 29, 1999) at 3.

adequacy of PFS's training program, set forth below, and that hence PFS is entitled to judgement as a matter of law.

A. PFS's Training and Certification Program Satisfies NRC Requirements

In its bases for Utah F, the State claimed that PFS "has not explicitly defined a training program," PFS has not defined "a listing of physical conditions that would bar a person from employment in specific positions [at the PFSF]" and PFS "has not shown that [the] qualifications [in the training program] are sufficient to guarantee that the facility will be operated safely." Utah Contentions at 40-41. The State generally complains of the lack of detail in the PFS training and certification program and takes issue with the experience PFS will require of the PFSF General Manager and PFSF operators. Id. at 41. Contrary to the State's claims, however, PFS has explicitly defined a training and certification program and has provided sufficient detail to satisfy NRC requirements. Moreover, the PFSF General Manager and operators will have sufficient education and experience to perform their jobs safely. Finally, the State's claim regarding a list of physical conditions that would bar one from employment is simply groundless, in that a requirement to provide such appears nowhere in the NRC's regulations.

NRC regulations provide that an ISFSI training and certification program is to consist of "training, proficiency testing, and certification of ISFSI . . . personnel." 10 C.F.R. § 72.192. Personnel operating equipment and controls important to safety and supervisors who direct the operation of such must be trained and certified. 10 C.F.R. § 72.190. In addition, the physical condition and health of personnel certified to operate

equipment important to safety must not be such that the operation of the equipment by such personnel would endanger other plant personnel or the public health and safety. 10 C.F.R. § 72.194. In Utah F, the State is simply advocating that requirements stricter than those imposed by the Commission's regulations ought to be imposed on PFS. The State's claims have no regulatory support and the State has not moved for a waiver of the Commission's training and certification regulations under 10 C.F.R. § 2.758. Thus, the State is left with nothing more than argumentation—unsupported by expert opinion. As PFS shows below, it has defined a training and certification program that comports with the NRC's requirements that is equally or even more detailed than the programs submitted with the applications for other ISFSI licenses that the NRC has granted. Thus, summary disposition of this contention is warranted for PFS.

The PFSF License Application (LA) and Safety Analysis Report (SAR) provide the training and certification program required by the regulations. Ladd Dec. at ¶ 6. The PFSF program as described in the LA and the SAR identifies those PFSF personnel that are to be trained and the specific areas in which training is to occur. Id. at ¶¶ 6-7. It adopts the "Systematic Approach to Training" (SAT), which is a well defined training process mandated by the NRC for the training of nuclear power plant personnel under 10 C.F.R. § 55.4 for implementing the PFS training program. Ladd Dec. ¶¶ 6, 12-14. As it does for operator training, the PFS program similarly provides for a systematic approach to testing operator proficiency and it provides the standards which are to be used in PFSF operator certification. Id. ¶¶ 6, 16-17. This is a comprehensive program that more than

adequately covers each of the points that 10 C.F.R. § 72.192 mandates for the training of ISFSI personnel. Id. at ¶¶ 6-20.

Regarding who must receive operator training, the SAR states that "[i]ndividuals who operate equipment and controls . . . 'important to safety' . . . must be trained and certified. Supervisory personnel who direct the operation of equipment and controls that are 'important to safety' must also be certified." SAR at 9.3-3. Thus, the SAR identifies the scope of PFS's operator certification requirements. This definition of the scope of the training program is in accordance with NRC requirements set forth in 10 C.F.R. § 72.190. Ladd Dec. at ¶ 7.

The SAR identifies the specific subject areas in which PFSF operators and their supervisors are to be trained. SAR at 9.3-3 to –4; Ladd Dec. at ¶ 8. It provides that all PFSF personnel involved in activities important to safety will be trained on the associated procedures prior to conducting the activity. SAR at 9.4-5; Ladd Dec. at ¶ 9. It also provides that appropriate personnel will conduct preoperational testing of the actual storage system components at the PFSF as part of their certification training. SAR at 9.2-4; Ladd. Dec. at ¶ 10. "The purpose for operational testing is to ensure that . . . personnel involved in spent fuel shipping, receipt, and canister transfer, onsite transport, and storage operations perform their intended tasks in accordance with approved procedures, with ALARA awareness, with efficiency, and without compromising personnel or public safety." SAR at 9.2-5. The SAR specifies the pieces of equipment on which PFS personnel will conduct preoperational testing. SAR at 9.2-4. The SAR also specifies the

operational tests that PFS personnel will perform on that equipment as part of their certification. SAR at 9.2-5 to –6. Finally, the SAR provides that where additional training is required, training materials will be developed using the SAT. SAR at 9.3-4; Ladd Dec. at ¶ 11.

In addition to identifying the areas in which and equipment on which PFSF personnel will be trained, the SAR provides that training in these areas will be implemented "using a Systematic Approach to Training," SAR at 9.3-1, which as previously noted is a well defined process mandated by the NRC for the training of nuclear plant operators under 10 C.F.R. § 55.4. Ladd Dec. at ¶ 12. The Systematic Approach to Training (SAT) as defined in 10 C.F.R. § 55.4 includes five basic elements. These are:

1. Systematic analysis of the jobs to be performed.
2. Learning objectives derived from the analysis which describe desired performance after training.
3. Training design and implementation based on the learning objectives.
4. Evaluation of trainee mastery of the objectives during training.
5. Evaluation and revision of the training based on the performance of trained personnel in the job setting.

Id.

The SAT is an "essential" part of an NRC training program. See Metropolitan Edison Co. (Three Mile Island Nuclear Station, Unit No. 1), LBP-85-15, 21 NRC 1409, 1455-56 (1985). Through the SAT, PFS will analyze the PFSF job performance requirements to establish the knowledge level and skills that are required for each position at the facility. SAR at 9.3-1; Ladd. Dec at ¶ 13. PFS will generate explicit learning objectives

and performance measures from this analysis. SAR at 9.3-1. It will develop training plans which identify training settings, sequences, and materials required. Id. PFS will implement the training program by conducting the training activities, documenting the training and evaluating the program's effectiveness. Id. The SAT is a well-defined process, implemented at nuclear power plants throughout the industry, by which PFS will identify the functions to be performed at the PFSF, develop individual job tasks for each of the functions, and link those individual job tasks to individual training objectives, testing requirements and ultimately certification. The implementation of the PFS training program through the well-defined industry-wide approach, defined by the SAT, is analogous to a quality assurance program that is implemented through its quality assurance procedures. Ladd Dec. at ¶ 14.[8]

The PFS training program also sets forth both formal testing requirements, tied to specific passing examination grades, as well as on-the job training (OJT) requirements. Id. at ¶ 16. The program provides that proficiency is to be tested by completion of OJT qualification cards, a practical exam based on the OJT, and a formal written exam. Id.; LA at 7-1. Further, the PFS training program provides the standards under which operators are to become certified before independently operating equipment important to

[8] It is well established that the NRC regulations require submission of programs in a license application, and not the detailed procedures by which the programs will be implemented. Louisiana Power and Light Co. Waterford Steam Electric Station) ALAB-732, 17 NRC 1076, 1107 (1983) (emergency procedures not required); Public Service Co. of New Hampshire (Seabrook Station, Units 1 and 2), ALAB-734, 18 NRC 11, 12-14 (1984) (quality assurance procedures not required). Accordingly, the inclusion of the detailed curriculum and tests resulting from the SAT process need not be included in the license application as the State claims. Indeed, as explained in Michael Ladd's declaration, these are sound reasons why such detail is not required at the license application stage. Ladd Dec. at ¶ 40.

safety. Ladd Dec. at ¶ 17. Finally, in accordance with the SAT methodology, the SAR provides for the evaluation of the PFS training program. Id. at ¶ 18.

The PFS program also specifies that employees will receive job-specific and certification retraining at least once every two years. Topics for retraining will be selected from initial training, NRC bulletins and information notices, major equipment and procedure changes, relevant industry events, and topics designated by the PFSF General Manager or requested by other site personnel. SAR at 9.3-5; Ladd. Dec at ¶ 19. The methods of and standards for certification after retraining are the same as those for initial certification. Response to Request for Additional Information 9-6 (February 10, 1999).

In summary, PFS has described in sufficient detail the specific subject areas and PFSF systems and components on which PFS employees will receive training, defined the process (i.e., the SAT) by which this training is to be implemented, and set forth the requirements and standards for the testing of proficiency and certification of PFSF personnel. PFS will certify that all personnel are trained as required as part of the PFSF Operational Readiness Review, before receiving spent fuel at the PFSF. SAR at 9.2-7. The PFS training program more than adequately addresses each of the three NRC requirements specified 10 C.F.R. § 72.192 and there is no basis for the State's claim that PFS has not adequately defined a training and certification program for the PFSF. Ladd Dec. at ¶ 20.

In addition to being sufficient under the NRC's regulations as shown above, the PFS training program is sufficient in that it is very similar to the training programs that

the NRC has approved for other ISFSIs under 10 C.F.R. Part 72. Ladd Dec. at ¶ 21. In fact, the PFS program contains more detail in the LA and the SAR regarding ISFSI subjects and equipment on which PFSF operators will be trained than do the training programs for both the Prairie Island and Calvert Cliffs ISFSIs. Ladd Dec. Exhibits 3 and 4 (training programs included in the Part 72 license applications for ISFSIs located at the Calvert Cliffs Nuclear Power Plant and the Prairie Island Nuclear Generating Plant). Although both the Calverts Cliffs and Prairie Island ISFSI training programs generally referred to their existing nuclear plant training programs, the development of the training program for the ISFSI specific activities in those applications is generally less than that set forth in the PFSF training program. The NRC approved both programs.[9]

Finally, the State's specific complaints about the lack of detail in the PFS training and certification program in the bases of Utah F are either immaterial, in that the State asserts that PFS should include material that the NRC does not require, or they are simply factually erroneous, in that the State has overlooked material that is included in the PFS program. PFS's training expert, Michael Ladd, refutes each of the State's arguments about detail in his declaration. Ladd Dec. at ¶¶ 22-40. Moreover, the sufficiency of the detail in the PFS training program is readily apparent in comparing it to the training programs for the Calvert Cliffs and the Prairie Island ISFSIs approved by the NRC. The

[9] See Safely Evaluation Report for the Baltimore Gas and Electric Company's Safely Analysis Report on Independent Spent Fuel Storage Installation at Calverts Cliffs, November 1992 at 3-8, Exhibit A to this Motion and Safety Evaluation Report for the Prairie Island Independent Spent Fuel Storage Installation, July 1993 at 8-2, Exhibit B to this Motion.

NRC approved both programs even though "[t]he details of instruction courses, training programs or work on simulation facilities" for ISFSI functions were "not laid out in detail" as the State claims is necessary here.[10] This is in accordance with the well established precept that detailed implementing procedures are not required as part of the license application. See note 8 supra.

In addition to the State's complaints about the lack of detail in the PFS training program having no regulatory basis, the State's complaints about PFS not requiring the PFSF General Manager and operators to have prior experience in dry storage operations, Utah Contentions at 41, are also meritless. The General Manager and the Operators will be trained to operate the PFSF safely as described above and moreover, their qualifications are consistent with the qualifications of similarly situated personnel at nuclear power plants licensed by the NRC[11]. Ladd Dec. at ¶¶ 23-27. Specifically, the NRC does not require the General Manager or the Operators to have prior dry storage experience. Id. at ¶¶ 24-26 (citing American National Standard N18.1-1971, Selection and Training of Nuclear Power Plant Personnel, §§ 4.1, 4.2.1, 4.5.1 (March 1971); Standard Review Plan for Spent Fuel Dry Storage Facilities, NUREG-1567 (Draft, Oct. 1996), at 13-7). The General Manager will have sufficient nuclear experience to understand facility operations and to make decisions such that the facility is operated in a safe and efficient manner. The Operators will have sufficient education to perform their jobs safely. In-

[10] See Utah Contentions at 41.

[11] Pursuant to 10 C.F.R. § 72.28(a), PFS has specified the minimum personnel qualification requirements for holders of key positions at the PFSF. SAR at 9.1-23 to –27; Ladd Dec. at ¶ 15.

deed, PFS will require both the General Manager and the PFSF operators to have more experience than the minimum required under accepted ANSI standands. Ladd Dec. at ¶¶ 26-27. Thus, this basis for Utah F should also be summarily disposed.

Finally, the State's claim that PFS must submit a list of physical conditions that would bar a person from operating equipment at the PFSF, Utah Contentions at 40, is without foundation. NRC regulations require that the physical condition and health of personnel certified to operate equipment important to safety not be such that the operation of the equipment by such personnel would endanger other plant personnel or the public health and safety. 10 C.F.R. § 72.194. They do not require an applicant to submit with its license application a list of physical conditions and corresponding pieces of equipment that one with such conditions could not operate. Ladd Dec. at 22. The regulations only require that an ISFSI licensee not allow a person to operate any equipment important to safety if that person cannot do so safely because of a physical condition.[12] Thus, PFS is entitled to summary disposition of this portion of Utah F.

B. PFS's Radiation Protection Program Satisfies NRC Requirements

The State claimed in its bases for that portion of Utah P admitted by the Board that PFS did not "adequately describ[e] a training program that insures all personnel working with radioactive materials, entering radiation areas or directing the activities of others who work with radioactive materials or enter radiation areas understand and can

[12] Indeed, to enable PFS compliance with section 72.194, all PFSF staff certified for operations important to safety will receive medical examinations to ensure that their physical condition would not impair their safe conduct of operations. PFS SAR at 9.4-1 to –2.

evaluate the significance of radiation doses in terms of the potential risk, including outlines of the training classes." Utah Contentions at 111-12 (citing Reg. Guide 8.8 § "1.c").[13] The State's claim is erroneous; PFS does describe a training program that will ensure that all personnel who direct activities or work with radioactive materials or areas are capable of evaluating the significance of radiation doses. Ladd Dec. at ¶¶ 41-42.

The contention overlooks relevant material in the PFS training and radiation protection programs. PFS has committed to implementing a Radiation Protection Program in accordance with 10 C.F.R. §§ 72.126, 20.1011, and 19.12, and ALARA program following the requirements of 10 C.F.R. Part 20 and the guidelines of NRC Regulatory Guides 8.8 and 8.10. SAR at 7.1-1 to –3. These provisions require instructions in the significance of radiation doses. Specifically, 10 C.F.R. § 19.12 requires instruction in "the health protection problems associated with exposure to radiation" and Reg. Guide 8.8 § C.1.c recommends instruction in "the biological effects of exposures to radiation to permit the individuals receiving the instruction to understand and evaluate the significance of radiation doses in terms of the potential risks."

Further, the SAR expressly provides that "PFSF personnel will be trained and updated on ALARA practices and dose reduction techniques to assure that each individual understands and follows procedures to maintain his/her dose ALARA." SAR at 7.1-3. During General Employee Training, all PFSF personnel will be trained in "[t]he nature and sources of radiation and contamination, interactions of radiation with matter, biologi-

[13] Reg. Guide 8.8 § C.1.c discusses the Staff regulatory position on ALARA training and instruction.

cal 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." SAR at 9.3-3. Thus, PFSF personnel will be thoroughly educated in radiation safety, including the significance of radiation dose. Ladd Dec. at ¶ 42. Therefore, PFS is entitled to summary disposition of Utah P.

CONCLUSION

For the foregoing reasons, the Board should grant the PFS summary disposition of Utah F & P.

Respectfully submitted,

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Dated: June 11, 1999

UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

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STATEMENT OF MATERIAL FACTS
ON WHICH NO GENUINE DISPUTE EXISTS

The Applicant submits, in support of its motion for summary disposition of Utah F&P, this statement of material facts as to which the Applicant contends that there is no genuine issue to be heard.

1. The Private Fuel Storage Facility (PFSF) License Application (LA) (Chapter 7) and Safety Analysis Report (SAR) (Chapter 9) provide a program for the training, proficiency testing and certification of PFS personnel, pursuant to 10 C.F.R. § 72.192. Ladd Dec. at ¶ 6.

2. The PFSF training program provides for a structured approach to training by adopting the "Systematic Approach to Training" (SAT), which is a well defined training process mandated by the NRC for the training of nuclear plant operators under 10 C.F.R. § 55.4, for implementing the PFSF training program. Ladd Dec. at ¶¶ 12-14.

3. The PFSF training program identifies those PFSF personnel that are to be trained and the specific areas in which training is to occur. Ladd Dec. at ¶¶ 6-8.

4. The SAR provides that individuals who operate equipment and controls important to safety must be trained and certified and that Supervisory personnel who direct the operation of equipment and controls that are important to safety must also be certified. Ladd Dec. at ¶ 7.

5. The SAR identifies the specific areas in which these persons are to be trained. It provides that the Operator Training Program will address the following subject areas: 1) canister transfer system design and operations, 2) canister transfer system

normal and off-normal procedures, 3) storage facility normal and off-normal procedures, 4) normal and off-normal transportation procedures for on-site transportation 5) maintenance, 6) storage cask temperature monitoring system, 7) radiation detection, monitoring, sampling, and survey instruments, 8) facility layout and functions, 9) operator responsibility and authority, 10) Technical Specifications, 11) normal and emergency communications, 12) transportation, and 13) topics covered in General Employee Training (GET) with specific emphasis on operations. The SAR also specifies the topics in which GET will be provided, which includes facility operation and design. Ladd Dec. at ¶ 8.

6. The SAR provides that all PFS personnel involved in activities important to safety will be trained on the associated procedures prior to conducting the activity. Ladd Dec. at ¶ 9.

7. As part of their certification training, appropriate personnel will conduct preoperational testing of the actual storage system components at the PFSF. Ladd Dec. at ¶ 10.

8. The SAR provides that where training in addition to that specified in the SAR is required, training materials will be developed using the SAT. Ladd Dec. at ¶ 11.

9. The SAR provides that, following the SAT method, the training program will be based upon analysis of the job performance requirements to establish the knowledge level and skills that are required for each position at the PFSF. Ladd Dec. at ¶ 13.

10. Based on learning objectives and performance measures generated from the analysis of job performance requirements, training plans will be developed which identify training settings, sequences, and materials required. The curriculum will outline the steps necessary to perform each task on which instruction is given. Ladd Dec. at ¶ 13.

11. Training will consist of classroom and on-the-job training (OJT), as appropriate, for all individuals, commensurate with their job duties and responsibilities. Ladd Dec. at ¶ 13.

12. PFS has specified, pursuant to 10 C.F.R. § 72.28(a), the minimum personnel qualification requirements for holders of key positions at the PFSF, including: General Manager/Chief Operating Officer, Radiation Protection Manager, Radiation Protection Technicians, Lead Mechanic/Operator, Mechanics, Lead Instrument and Electrical Technician, Instrument and Electrical Technicians, Lead Quality Assurance Technician, Quality Assurance Technician and Quality Assurance Auditor, Lead Nuclear Engineer, Nuclear Engineers, Security Captain, and the Emergency Preparedness Coordinator. Ladd Dec. at ¶ 15.

13. The PFS training program provides for both practical and formal testing of the proficiency of PFSF operators. The operators will have to pass comprehensive written and practical examinations in order to become Certified. Operators must also complete on-the job training (OJT) requirements that will be documented in a set of Qualification Cards containing the Job Performance Measures of practical factors that are required to be performed by the operator. Ladd Dec. at ¶ 16.

14. The PFS training program provides the standards under which operators are to become certified before independently operating equipment important to safety. An operator must have completed the OJT qualification cards, pass the practical exam, and achieve an 80% or higher on the formal written exam. Ladd Dec. at ¶ 17.

15. PFS will certify that all personnel are trained as required as part of the PFSF Operational Readiness Review before receiving spent fuel at the PFSF. Ladd Dec. at ¶ 17.

16. In accordance with the SAT methodology, the SAR provides that the effectiveness of the training, and the training program will be evaluated by reviewing written test performances, performance on walk through evaluations, on-the-job training, and feedback from trainees, supervisors, and instructors. Ladd Dec. at ¶ 18.

17. After initial training, testing, and certification, all PFS employees will receive periodic retraining. Ladd Dec. at ¶ 19.

18. The PFS training and certification program provides for the comprehensive training of PFSF personnel in the various areas that they will be required to function in accordance with the well-established principles of the SAT and adequately addresses the requirements specified in 10 C.F.R. § 72.192. Ladd Dec. at ¶¶ 14, 20.

19. 10 C.F.R. § 72.194 (Physical requirements) does not requires a listing of physical or mental conditions that would bar a person from employment at an ISFSI. Ladd Dec. at ¶ 22.

20. The SAR provides that the PFS General Manager will have ten years of responsible experience within the nuclear industry and a bachelor's degree in an engineering or scientific field generally associated with nuclear power production, fuel storage, or radiation protection. Furthermore, the General Manager shall be familiar with all applicable rules, regulations, codes and procedures. Ladd Dec. at ¶ 24.

21. Neither NRC regulations nor industry standards require plant managers to have specific experience in any single facet of plant operation. Ladd Dec. at ¶¶ 25-26.

22. The level of nuclear experience specified in the SAR for the PFS General Manager exceeds the minimum required by American National Standard N18.1-1971, Selection and Training of Nuclear Power Plant Personnel, § 4.1 (March 1971). Ladd Dec. at ¶ 26.

23. The SAR provides that PFS operators will have high school diplomas plus four to six years of prior experience in mechanical maintenance, which exceeds the minimum required by American National Standard N18.1-1971, Selection and Training of Nuclear Power Plant Personnel, § 4.1 (March 1971) for plant operators that are not licensed reactor operators. Ladd Dec. at ¶ 27.

24. Further, the General Manager and the operators will be trained to operate the PFSF safely as described above. Ladd Dec. at ¶ 23.

25. The PFS training program provides a sufficient level of detail to satisfy NRC regulatory requirements. Ladd Dec. at ¶¶ 20, 30.

26. The level of detail in the PFSF training program is equivalent to, or exceeds, that found in the license applications and safety analysis reports for other ISFSIs. Ladd Dec. at ¶ 21.

27. In the SAR, PFS has committed to implementing a Radiation Protection Program in accordance with 10 C.F.R. §§ 72.126, 20.1011, and 19.12, and an ALARA program following the requirements of 10 C.F.R. Part 20 and the guidelines of NRC Regulatory Guides 8.8 and 8.10. These provisions to which PFS has committed require instruction in the significance of radiation dose. Ladd Dec. at ¶ 42.

28. The SAR expressly provides that "PFSF personnel will be trained and updated on ALARA practices and dose reduction techniques to assure that each individual understands and follows procedures to maintain his/her dose ALARA." Id. at 7.1-3. During General Employee Training, all PFSF personnel will be trained in 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. Ladd Dec. at ¶ 42.

29. PFS has committed to, and has made sufficient provision for, educating PFSF personnel in radiation safety, including the significance of radiation dose. A fully developed Radiation Protection Training program need not be described in the SAR and, in particular, an outline of courses is not required. Ladd Dec. at ¶¶ 41-42.

30. The PFS training program meets the requirements of the law as stated in 10 C.F.R. § 72. 192. In addition, PFS has set forth in appropriate detail personnel qualifications and testing and training requirements for PFSF personnel. Ladd Dec.

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(Private Fuel Storage Facility)	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of the "Applicant's Motion for Summary Disposition of Utah Contentions F & P – Training and Certificate" and "Statement of Material Facts," dated June 11, 1999, and supporting Declaration of Michael Ladd were served on the persons listed below (unless otherwise noted) by e-mail, with exhibits thereto by facsimile, with conforming copies by U.S. Mail, first class, postage prepaid, this 11th day of June, 1999.

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U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
Attention: Rulemakings and Adjudications Staff
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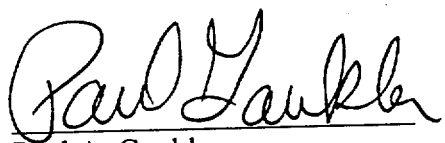

Paul A. Gaukler

Document #: 774267 v.1

June 11, 1999

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)	)	

ATTACHMENTS FOR

APPLICANT'S MOTION FOR SUMMARY DISPOSITION OF UTAH CONTENTIONS F & P – TRAINING AND CERTIFICATION

ATTACHMENT CONTENTS