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David L. Meyer, Chief  
 Rules, Review and Directives Branch  
 Division of Freedom of Information and Public Services  
 Office of Administration  
 Mail Stop T-6D-59  
 U.S. Nuclear Regulatory Commission  
 Washington, D.C. 20555-0001

Sirs:

Downwinders submits the following comments on the Draft Environmental Impact Statement for the Construction and Operation of an Independent Spent Fuel Storage Installation on the Reservation of the Skull Valley Band of Goshute Indians and the Related Transportation Facility in Tooele County, Utah

#### General Comments

The DEIS violates NRC's NUREG-1555 requirements for preparation of an EIS in several particulars, which in aggregate, invalidate the document and therefore require issuance of a Supplemental Environmental Impact Statement to correct these errors and omissions.

Specifically, the DEIS does not "stand on its own as an analytical document that fully informs decision makers and the public of the environmental effects of the proposed action". The DEIS refers repeatedly to the SAR and SER as supporting documents, yet those documents are not generally available to the public and are not incorporated into the DEIS in such a way as to be accessible and understandable to inform decisions. The DEIS discusses Best Management Practices (BMPs) to be employed in facility construction and in transportation, but omits any mention of BMPs for facility operation, presumably because these BMPs have not been developed. The DEIS states under Mitigation Measures (page xliii et. seq.) that mitigation plans will be developed at a later date to deal with noxious weeds, restoration and revegetation, fire suppression, wildlife monitoring, and more. It also states there that mitigation measures for rail line construction will be implemented according to an MOA not available to the public or otherwise explained in the DEIS. A Spill Prevention, Control and Countermeasures Plan (SPCC) will be forthcoming (page 5-10), but is referenced only for Alternative 3. Lastly, we are informed that the NRC will be consulting with the Department of Defense and will address military concerns in some agreement or document at some later date.

Information, particularly information crucial to an analysis of the environmental effects of the proposed action, to be provided or developed later has no place in a document that by regulation must stand on its own. Further, NUREG-1555 states that the EIS cannot refer to other documents for essential information, must be complete, and must emphasize significant issues. Clearly, the DEIS does not meet these tests, and is unacceptable.

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The DEIS fails to address full impacts of the proposed action by minimizing or ignoring the potential impacts on communities through which transportation of spent fuel will occur. As this proposed action has potential impacts nationwide, the NRC has failed the public in this impact analysis process - and thus failed to meet its own and NEPA regulations to be complete, emphasize significant issues, and fully inform decision makers and the public - by excluding those communities from the EIS process.

Appendix D assumes only the PFS member utilities will transport their spent fuel to the proposed facility. Yet the DEIS states that non-member utilities could participate in using the proposed facility (page 5-1). This presents the possibility that the facility could be expanded beyond the current proposed capacity, but the DEIS does not address this. Nowhere does the DEIS analyze what other non-PFS utilities could store their spent fuel on the Goshute Reservation. In fact, the DEIS even fails to analyze the impacts of construction and operation of Phases 2 and 3 of the PFSF.

Alternatives 2 and 4 to the proposed action are phoned up alternatives, presenting no real alternative action, just moving to a Site B a stones throw away. The comparison utilizing the Owl Creek, Wyoming site is a window dressing exercise. This proposal is dead in the water, going nowhere, and thus is not a reasonable alternative due consideration. The NRC has assumed throughout this process that the PFS facility will be temporary pending the opening of a permanent repository at Yucca Mt., Nevada. While we believe that Yucca Mt. will prove unsuitable as a repository site, oppose temporary storage at Yucca Mt., and insist that NRC assume for purposes of the PFS application that Yucca Mt. will not be developed as the permanent spent fuel repository, it is nonetheless amazing that the NRC has not considered temporary storage at Yucca Mt. as an alternative for this DEIS. Considerable study has been done on the Yucca Mt. site, and it has certainly been given serious and repeated scrutiny and support from Congress as an alternative. For NRC to not use the most studied and debated site as an alternative to this DEIS while choosing Site B as the foundation of 2 of the 4 alternatives and offering up Owl Creek as a non-alternative alternative is not only disingenuous, it undermines the credibility of the entire process and reinforces the perception that NRC is acting as an advocate for PFS.

The DEIS fails to establish a need for the proposed action. Vague assertions based entirely upon industry supplied information or opinion form the only basis of need. "Some reactor sites" (1-11) have physical storage limitations preventing new or expanded on-site storage. "Many" reactors are at pool capacity (1-6). "Several nuclear utilities" are running out of space (1-6). If the proposed PFSF is not licensed, it "could" lead to termination of power generating activities before license operation at "one or more" nuclear power plants, which "could possibly result" in increased use of fossil fuel power plants (xiii). "Some, many, several, one or more, could possibly"??? Please. This analysis of need is so flimsy as to be ludicrous. It is not enough for the NRC to accept the proponents assurances that this facility is needed. There is ample evidence that sufficient space exists at reactor locations for storing spent fuel on site, but this is not assessed.

Table 1.1 provides information only from PFS member utilities, and doesn't state when the

individual plant licenses terminate. The data presented do not make a case for the selection of the preferred alternative. As the DEIS also notes that the (NRC) "Commission has made a generic determination...spent fuel generated in any reactor can be stored without significant environmental impacts for at least 30 years beyond the licensed life for operation of that reactor at on-site or off site ISFSIs". Further, the DEIS notes that "approximately" 15 to 20 new ISFSIs have been proposed in addition to the current 15 ISFSIs. Surely this undermines the need for a centralized facility as proposed by PFS.

In fact, the DEIS must find for the No Action Alternative, which has already been "FONSIed" by the NRC in 1984, 1989, 1990, and 1999. On-site storage of spent fuel has been licensed 8 times at 8 reactor sites with an EA FONSI in each case. Environmental impacts associated with the No Action Alternative are clearly the least of any of the Alternatives. The weak cost/benefit analysis presented in the DEIS (which we dispute has much merit) gives only a marginal edge to the preferred alternative which in no way outweighs the negative environmental impacts and potentially devastating economic impacts should a serious accident occur.

As Always,



Steve Erickson  
for Downwinders

c/o 961 E. 600 S.  
Salt Lake City, UT 84102