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September 18, 2000

Mr. David L. Meyer, Chief, Rules Review and Directives Branch  
Division of Freedom of Information and Publications Services  
Office of Administration, Mailstop T-6D-59  
U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001  
FAX DELIVERED (301) 415-5144

Re. Response of James Webster, residing at 938 S. Military Drive, Salt Lake City, Utah 84108  
to the Draft Environmental Impact Statement for the proposed SNF facility at Skull Valley,  
Tooele County, Utah; Docket No. 72-22; Private Fuel Storage, L.L.C.

Dear Mr. Meyer,

Please find below my comments and questions related to the DEIS for the proposed SNF facility in Skull Valley, Utah. I have referenced page number(s) and pertinent lines of the DEIS report for use in reviewing my comments. I am a registered landscape architect in the State of Utah and I hold graduate degrees from Harvard University in Landscape Architecture/Environmental Planning and Architectural History. My resume in related and pertinent matters includes the following: consultant in the preparation of over 15 comparable DEIS reports for mining and energy projects (tar sands, shale, geo-thermal, coal, etc.), preparation of visual simulations of impacts for comparable projects, expert witness testimony on environmental and land planning cases, research of history of community and economic development in the Great Basin through a federal NEH grant, participant in NSF grant studies of environmental impact/planning, and 10 years as a railroad brakeman/conductor throughout the western states. I anxiously await a timely response to my questions and concerns, referenced by pertinent page(s) and lines in the DEIS.

The following comments refer to EXECUTIVE SUMMARY:

xxxii, lines 29-30 Why the terminology "it is expected the SNF would be shipped from the proposed PFSF to a permanent repository"? In view of the ongoing deception and ethical flaws associated with this process to date, what would cause anyone to believe that Skull Valley is anything other than a permanent facility? I note that in the Environmental Report, less than three pages are devoted to "decommissioning and closure" of the facility, and in the DEIS barely 2.7 pages are similarly disposed (117 lines). Why is this critical issue of so little consideration? It appears to be discarded out of hand.

xxxiii, lines 1-13 Alternatives 2-4 are the same as #1; not really alternatives at all, but rather variations on a scheme to impose high level waste at the same location within the same region.

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*xxxiii, lines 20-33* The Wyoming alternative (#5) is fodder; not considered by the proponent or the DEIS as being viable from day one. By open admission of the DEIS, this "alternative" has not been adequately studied. This contradicts the intent of the NEPA (National Environmental Policy Act). Why have permanent storage alternatives enumerated in the Environmental Report been deleted from consideration in the DEIS? If transportation risks exist, and it is obvious that such hazards cannot be mitigated by moving the casks on two separate occasions, then why has not the option of constructing an interim facility near the alternatives for permanent storage been considered? Moving the casks twice exacerbates rather than mitigates risk of transport.

*xxxv, lines 15-16* Who, if anyone, has determined that there is adequate water anywhere on the Goshute Reservation of sufficient flow and duration? What determination, if any, has been made by the Utah State Engineer to issue additional water rights? No well test logs or pertinent data are provided. Indeed, the DEIS states that adequate water may not be found on-site. It is therefore just as reasonable to conclude that adequate water may not be found anywhere else within a reasonable proximity anywhere in the region. What is the fire flow requirement and how was this determined? Will the facility comply with Tooele County fire flow requirements and the Uniform Fire Code? How familiar are R.H. Kettle and R.R. Lee with the sub-surface hydrology of Skull Valley? Hydro-geologists who have studied this area for many years are not convinced that adequate sources of groundwater are available. Why was the panel unfamiliar with basic geo-seismic mapping as evidenced during the July 27th hearing in Salt Lake? Lack of familiarity with hydro-geologic conditions appears to be a similar deficiency.

*xxxvi, lines 25-30* The historical significance of the Lincoln Highway is an important national concern. Insofar as a group is actively involved in its preservation, why was it not contacted or referenced in DEIS? Why have cultural resources such as the Lincoln or Victory Highway, first transcontinental telegraph line, the Central Pacific Railroad, and telephone line not been cited or properly evaluated? Why is there no reference to the historic Hastings Cut-off Trail? The full extent of "cultural resources" has not been determined, as evidenced throughout the DEIS. Why?

*xxxvi, lines 32-33* The "region" cannot provide a radiological team, fire protection, protection from terrorist or sabotage attack, or the righting of tipped casks within the specified time-frame. I've seen a simulation of the layout of casks in a large Hippodamian grid of blocks. If a cask were to tip over during a seismic event, or as a result of a man-made cause such as errant USAF aircraft, ordinance from such aircraft, or terrorist sabotage and therefore be rendered vulnerable to leakage in the middle of one of these large blocks, how would the radiological team reach into this large subdivision of casks to correct the problem? Response time is another critical issue, given an estimate of between 12-15 hours for the radiological team to reach the site from the West Coast.

*xxxvi, lines 38-42* Potential impact to "livestock grazing" is a red herring, especially in light of the omission of numerous, more significant "cultural resources" which are not inventoried.

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*xxxvii, lines 16-17* "Landscaping" would constitute a totally alien intrusion upon Skull Valley and consume valuable water resources that could otherwise be utilized for viable agricultural purposes for the Goshute population, as certainly should have been the case if the BIA and federal government had ever attempted to assist the Goshutes throughout the checkered history of the reservation. According to what standard could the facility "blend" with "surrounding land colors"? What qualifies anyone to make such an absurd statement? I've prepared numerous visual simulation models for the BLM. I've seen the visual simulation that was alleged during the presentation at the public hearing to be applicable to the proposed project. However, this simulation has not been not referenced in the DEIS or graphically displayed for review. Why? Simulation is a standard procedure for small mining projects on BLM land, having significantly less visual intrusion (i.e. Atlas perlite project in Paisley, Oregon). Why was this not similarly accomplished?

If the proposed grid layout were to have been properly evaluated by computer simulation modeling, then color blending would constitute an nearly insignificant aspect of visual impact as compared with the brutal intrusion of the alien grid work of upright casks, the colors of which constitute a severe impact. Landscape improvements would not serve to mitigate this impact. Except to the possible extent that native plants are utilized, comparable color composition would not be achieved, to whatever limited extent. However, no list of proposed native plant species is provided and no one on the evaluation team appears to be familiar with native plants of the Great Basin region. I've reviewed the qualifications and background of the "Preparers" (11-1 through 11-3) and find that not one of these people is a registered Landscape Architect, and I expect that M.S. Salk (plant and wet land ecology) and J.W. Van Dyke (aesthetics) are not sufficiently familiar with the unique plant habitat of the Great Basin or otherwise qualified to assert relevant opinions on aesthetics or landscape mitigation.

*xxxviii, lines 41-44* A "detailed design for an ISFSI in Wyoming does not exist", nor has this site "been studied in as great detail as the Skull Valley site". Therefore, it cannot be realistically compared to the preferred site by open admission in the DEIS. Nevertheless, a comparison is made. This is totally disingenuous and endemic of the absence of credibility of the DEIS. Why tack on an indefinite site in Wyoming and then exclude other viable options such as the potential permanent alternatives as interim sites to be employed to mitigate the impact of transporting the waste a second time?

*xlii, lines 30-31* If indeed the "NRC has previously reached the overall conclusion that the environmental effects of building at-reactor ISFSIs are not significant", then why is anyone still pursuing the Skull Valley alternative, when no alternative is needed? Why have re-processing or other viable reclamation alternatives for core re-use at-reactor ISFSI's not been addressed in the DEIS?

*xliii, lines 1-17* No environmental costs are discussed with respect to the Skull Valley Band, only benefits (p. xlii). Specific costs associated with the abandonment and abrogation of a cultural heritage based on reverence for the land per se is never discussed in the DEIS. This is

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the essential basis for opposition from Navajo, Hopi, Shoshoni (to whom the Goshutes are related), and other tribes. This opposition identifies the most significant socio-economic concern of Native Americans throughout the region. Reverence for the land is never identified, except by Native Americans opposed to the facility. This is a serious oversight that also constitutes a socio-economic significant cost and violation of environmental justice.

*xliv, lines 11-12* The DEIS indicates that impacts to scenic qualities can be completely mitigated once the proposed facility and rail line are decommissioned and removed. After over 150 years, scars from covered wagons along the Oregon and Mormon Trails are still evident in comparable arid conditions of Wyoming and the Great basin. No comparable facility has ever been decommissioned. There is no evidence to support the DEIS assertion.

*xliv, lines 32-33* The DEIS states "As long as SNF remains in storage at the reactor, decommissioning cannot be completed". If it has already taken 40-50 years to evaluate potential sites for relocation of SNF and nothing has yet been accomplished, how is it that one should be inclined to believe that within 20 short years a "permanent" site will be resolved and all SNF will be removed from Skull Valley, thus allowing for the decommissioning which cannot be otherwise accomplished at Skull Valley? I again note that in the Environmental Report, less than three pages are devoted to "decommissioning" the facility, and in the DEIS barely 2.7 pages are similarly disposed (117 lines).

Insofar as an adequate means of mitigating unavoidable hazards that are likely to be incurred during the initial shipment has not yet been determined, why should anyone believe that once the waste has been "temporarily stored" in Skull Valley that another methodology will be somehow, if not miraculously attained through some sort of an epiphany to reveal a safer means of transport to yet another facility? This is an unprecedented, unmitigated fairy tale.

*xlv, lines 17-19* How much of the "adequate plan for fire protection, suppression, and rehabilitation during construction and operation" has been developed and tested to date?

*xlv, lines 34-47* The most significant "cultural resource" is the land itself, undisturbed by human intrusion according to indigenous Native American traditions and religious values; yet the land itself is never identified or evaluated as a cultural resource.

*xlvi, lines 1-17* The Hastings Cut-off Trail is not identified as cultural resources. The ghost of Lansford Hastings, however, appears to have perhaps influenced the DEIS spin doctors. He told immigrants that the West Desert was less than 40 miles wide. While the Donner Party may have believed Mr. Hastings, I have no justifiable cause to believe many of the attributes of the proposed facility promoted by the DEIS.

*xlvii, lines 41-42* The Goshutes historical unwillingness to violate cultural values and respect for the land have prevented and specifically excluded "existing resource management plans or land use plans within Skull Valley". How in good faith can this faithfulness to the Native American

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ethic be used against the diligent majority of Goshutes as an excuse to inflict impacts upon their land? How many are aware of the closed-door deals struck by the three leaders? How many have been given the opportunity to fully understand all pertinent issues? How many have had the opportunity to vote or otherwise voice an opinion? If all Goshutes have not been adequately consulted, this process is prejudicial and inadequate by standards of the U. S. Constitution. It would appear that while we generally condemn third-world countries for human rights violations, we nevertheless condone the politics of Leon Bear when it suits our needs.

The following comments refer to "POTENTIAL IMPACTS OF ALTERNATIVES" matrix ("Site A"):

*lviii, re. Housing* To extend the comparison to "vacant housing units" elsewhere in Tooele County, the largest county in Utah during 1990 is insulting and illogical, given the extensive geographic distance and fact that 1999 statistics indicate an ongoing crisis for affordable in Tooele County. Available current data has not been cited. This is deceptive and disingenuous.

*lix, re. Education* Are children to be bussed? Why is bussing not considered an socio-economic impact that should otherwise be avoided by viable alternatives not addresses in the DEIS, in situ storage for instance? A critical component of the Native American educational process involves perpetuation of indigenous traditions and the use of plants for medicinal and related cultural purposes. These aspects of education are not addressed.

*lxi, re. Transportation* The DEIS indicates a "172 percent increase in use of road"? The current baseline ADT (average daily traffic count) of the approximately 30 residents who don't commute on a regular basis is not indicated in the DEIS. Compared to an additional 255 construction workers and/or employees plus a family multiplier of at least 3.5 (rest of state is 4.2) or 892 people, there would actually be an increase of 2.974 % in the population that commutes every day. DEIS numbers are erroneous.

*lxv, re. Cultural Resources* Native American reverence for land or native biota has not been adequately considered within the appropriate perspective of religious values. No human intervention or disturbance of the revered land is acceptable, according to many Goshutes, and as is verified by other Native American tribes who oppose project. Long-standing traditions of cultural veneration of the land and the use of native plants for medicinal and ceremonial purposes have been categorically ignored.

*lxvi, re. Cultural Resources* Why have "no traditional properties important to Federally recognized Indian Tribes or culturally important resources" been documented? How can anyone reasonably conclude that construction and operation "is (sic) considered to have a small potential for affecting such resources or cultural values" if they have never been documented, and therefore not recognized? These resources must be documented, and documentation must acknowledge a religious reverence for zero impact on the land, which is sacred.

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*lxx re. Environmental Justice* According to the DEIS, clearing of 295 acres "may have a slight effect on traditional land uses in the BLM lands to the west of Site A"? Any use, even those that do not mandate the wholesale clearing of vegetation and alteration of natural gradients constitute a dramatic invasion and irreparable impact upon land which is regarded by Native Americans as sacred. This impact is especially true insofar as it affects all future generations. At least 30% of the Goshutes in the band, and other adjoining tribes oppose the proposed use based on these traditional native religious values. To conclude that land clearing imposes a "slight effect" is absurd. Impacts upon native plants within ecological habitats that are unique to Skull Valley and provide sources for medicinal therapy that are not available anywhere else have been ignored.

*lxxii re. Scenic Qualities* The "direct impact of changing the scenic quality of Skull Valley by introducing an industrial presence into a largely undeveloped landscape" would not represent a "small to medium impact" to residents, but rather an impact so dramatic as to become virtually incomprehensible given a religious heritage of absolute respect for the land and the prohibition of any imposed use, especially one having such a direct connotation with death. Violation of "scenic quality" constitutes a violation of environmental justice.

*lxxxiii re Recreation* Resources and opportunities for recreation include the availability of sacred land and the absence of truck and rail traffic. Other comparable recreational resources are not identified in DEIS.

The following comments refer to PURPOSE AND NEED:

*1-6, lines 39-41* It is DOE's problem, not the residents of Utah, that the deadline imposed by NEPA is already nearly two years delinquent. Mismanagement and an apparent unwillingness to abide by the law further discredits those who are presently making judgements with respect to relative degrees of environmental and socio-economic impacts. There exists an inherent conflict of interests. Within this unfortunate framework, justice cannot be served in any reasonable fashion by the same people who are responsible for creating the problem of delay. Not since 15th century Machiavellian Florence has such an irrational, ego-centric, irresponsible and disingenuous political aura been imposed upon the social landscape. Is there no accountability whatsoever? Is the United States Constitution applicable to everyone except PFS and the the NRC?

*1-7, lines* If "approximately 15 to 20 additional ISFSIs are proposed in the near term" as represented by the DEIS, and only Prairie Island is currently a PFS member, how much of this additional waste is expected to come to Utah within the anticipated 20-year initial phase? Is this anticipated waste included in the 44,000 tons? What about the other 14-19 ISFSIs that are not members of PFS? If they are presently excluded, the NRC is only solving 5% of this problem, assuming Prairie Island contributes waste that is likely to exceed the 44,000 tons. What about the possibility of also storing nuclear waste from other countries? Is weapons grade plutonium from other countries another consideration that has not been included in the DEIS evaluation?

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*1-11, lines 9-12* According to PFS, the Skull Valley interim storage site would only "reduce the cost of SNF storage". What is this specific cost? Why is this being proposed at all if a margin of cost reduction, which could be relatively small is the only criterion?

*1-11, lines 45-46* Has the Pony Express Resource Management Plan (RMP) been amended? When and to what extent? By whom? To what extent was the public included in the hearings? Have all aspects of the proposed facility been considered in the amendment? If revisions to the DEIS are forthcoming for the Final EIS draft, will the RMP be reconsidered?

*1-12, lines 26-33* Socioeconomic impacts are not excluded to land use, recreation, tourism, wilderness preservation, and aesthetic values. Ever-present psychological fear and danger associated with the facility, the ethic of imposing degenerative and deleterious materials on sacred lands, the inability and/or unwillingness of PFS and Tooele County to provide a radiological team or basic fire protection, the inability of PFS to provide protection from sabotage and terrorism, and the forced abolishment of traditional reverence for the land and its biota by Goshutes opposed to the project constitute serious socioeconomic impacts that have not been addressed or resolved by the DEIS.

Sabotage of a remote rail line is virtually impossible to predict or control. Recent experience of transporting nuclear waste in Germany is a clear indication of this likely means of environmental terrorism, one that escalated enormous costs of police and military protection. A recent survey of Tooele County's volunteer firemen who indicated that they would not respond to an emergency at the proposed PFS facility, as is their prerogative, provides clear evidence that fire safety concerns cannot be resolved under the present system. This is understandable given the 100% fatality rate of firemen who responded at Chernoble. Objective analysis of such risks is not evident in this DEIS. Comparable evaluation of derailments due to conventional lapse of maintenance and other unanticipated causes (other than sabotage or terrorism) has not been accomplished in the DEIS. My 10 years of experience as a railroad brakeman indicates that derailments occur irrespective of the type of cargo or special train designation. The potential for sabotage or terrorism of rail lines elevates socio-economic and environmental impacts to an unprecedented level that has not been adequately addressed by the DEIS.

*1-12, lines 34-38* Cultural resources and environmental justice issues are not limited to impacts on "historical and archaeological resources of the area and on the cultural traditions and lifestyle of Native Americans" as defined by the DEIS. With respect to "cultural traditions", a religion that venerates the land has been categorically ignored. Why?

*1-15, lines 3-5* If the term of the lease is 25 years, then why is the "license" only for 20 years, as stated in the Executive Summary? Why has the "irrevocable option for an additional 25 years" not been stated in the Executive Summary? These inconsistencies, contradictions and omissions are unsettling and seemingly dishonest, further eroding the credibility of the DEIS. There appears to be a hidden agenda that has not been addressed in a forthright manner, nor have all criteria, costs or benefits of the "irrevocable option" been identified.

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*1-17, lines 15 and 32; 1-18, lines 1-12* Did the Confederated Tribes of the Goshute Reservation, the Oregon-California Trail Association, and the National Park Service participate in the consultation process and to what extent? The DEIS is extremely vague in defining the specific activity of these entities..

*1-18, line 13 and Appendix B, pages B-13 and B-14* With respect to Wilson Martin's letter of June 24, 1999 all three issues (Iosepa, consultation with other tribes, and Skull Valley Road) have not been fully dealt with or resolved? According to Jim Dykmann, archaeologist with the Utah State History Division, Paul Nickens has been only recently retained to study these matters. When will a full analysis be forthcoming?

*1-20 lines 1-2 and line 20* Pertinent responsibilities required of the project proponents as defined by Executive Order 13007 (Indian Sacred Sites) and The American Indian Religious Freedom Act have been ignored in the DEIS, except for these cursory references. Why?

*2-16 to 2-22, Sub-section 2.1.2.1* indicates that "Transportation of Spent Fuel to the Proposed PFSF" provides no information with respect to the actual alignment of the rail lines, particularly with respect to the lines that would be utilized to transport casks through northern Utah and Salt Lake City in specific terms. The map depicted by Figure 2.7 (at a scale of approximately 1" = 67 miles) is completely inadequate. Of the total lines in the DEIS devoted to transporting casks to Skunk Ridge (lines 19-44 on page 2-16 and lines 1-5 on page 2-19), only 13 refer to the proposed rail shipments, including up to 200 casks per year and/or one train per week. However, the extent of tonnage per route is never addressed. Why are possible derailments, common to all other types of materials transported by the Union Pacific Railroad not addressed? Why isn't the extent of nuclear radiation exposure to railroad brakemen, switchmen, engineers, and yardmen addressed?

The DEIS does not define anticipated hours of exposure per train crew, or the relative priority of the "single-purpose trains" with respect to other types of cargo, except to indicate that these trains will stop "only for crew changes, refueling, and periodic inspections". This is completely unrealistic, as no train, however special or "single-purposed", could be afforded such a priority in the real world. If this train is so "hot" (railroad terminology for a very high priority train, yet ironically a double-entente), then why would one not expect that "fueled power units" (other engines) would simply be utilized to replace those in need of fuel, as is commonplace throughout the Union Pacific system?

As has been abundantly demonstrated since the Civil War, rail transport is unique in the sense that it is the most vulnerable of transportation means to sabotage and terrorism. Why does the DEIS fail to address this issue? Given scant amounts of pertinent information in the DEIS, how can anyone realistically expect this exercise to have to honestly evaluated the environmental and socio-economic impacts of transporting nuclear materials by rail through and urban area such as Salt Lake City?

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Casks have been tested by computer simulation modeling to withstand an impact resulting from a drop from 30 feet onto a concrete surface. This in no manner whatsoever is comparable to the discharge of a cask from a rail car travelling at conventional speeds, should such car become derailed on relatively flat terrain. Should the train collide with another train approaching at a commensurate rate of speed, or should the cask fall from an elevated bridge or overpass, the magnitude of impact could exceed the computer simulated estimation by a factor of at least 10 times. While a reduction of rate of speed for the "single-purpose" train may serve to partially mitigate this, the cask would nevertheless be fractured to an unknown extent, allowing for an unknown displacement of nuclear waste. Reduction in speed of the train would also cause a significant socio-economic impact related to an overall reduction in the efficiency of rail delivery of all other goods throughout the country. These impacts are not addressed in the DEIS.

3-3 lines 17 to 37 Sub-section 3.1.2 generally describes three areas in Skull Valley where faulting occurs: "The Stansbury Fault, East Cedar Mountains Fault and mid-valley faults (East, West, and Springline Faults; see figure 3.1)", and interprets these faults as "geologic structures that can contribute to the seismic hazard at the site". The Stansbury Fault is less than 6 miles from the "controlled area", as has been documented by numerous well known publications of the USGS and Utah Geological Survey. However, no source for the Figure 3.1 mapping of these occurrences is identified by the DEIS. During the July 27th hearing, the NRC panel indicated that they were not familiar with the geologic and geo-seismic studies or maps commonly available at the Utah Department of Natural Resources bookstore and university libraries in the Salt Lake City area. One of these, entitled "Quaternary Geologic Map of Skull Valley, Tooele County, Utah" identifies known geo-seismic faulting and related activity that is not referenced in the DEIS, specifically an area of about 520 acres within which at least 20 "faults or fractures having small or undetermined displacement" (re. Map 150, Utah Geological Survey, by Dorothy Sack, 1993) are known to exist. Of the total amount of faulting in the immediate area, over 275 acres are within the designated 820 acres described as the "Proposed PFSF Owner-Controlled Area" as delineated by Figure 2.1 and Figure 2.11.

Over 20 acres of this faulting is contained within the 99-acre "Restricted Area". A second study, "Quaternary Faults and Folds, Utah" by Suzanne Hecker (Plate 1, Bulletin 127, 1993) is also available at the bookstore and confirms the presence of Late Pleistocene faulting in Skull Valley as defined above. This map clearly indicates the Stansbury Fault and other inferred faulting within the "controlled area". One has to question the veracity of the DEIS and competency of its preparation staff when such readily available information to the general public is ignored by the DEIS geo-seismic experts. Notwithstanding that these faults are clearly defined in these studies as genuine seismic fractures, at the August 21st public hearing a member of the NRC panel characterized them as "sand bars".

According to Utah law, prior to the issuance of a zoning approval or building permit, it is the specific onus of proponents to provide convincing evidence by means of extensive trenching and examination of all inferred faulting by qualified geo-seismic experts to ensure that any and all faulting, including any possible additional seismic activity as may be determined by the on-site

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examination will not present a hazard in the immediate short-term life of any given project. Liquefaction is another significant concern that has not identified or evaluated in the DEIS. Why does the federal government refuse to comply with this reasonable standard or suggest that these issues are "safety concerns" to be dealt with under some hidden agenda? Is this a worthy exemption when so many human lives are at stake? Certainly, 18 lines of text in sub-section 3.1.2 and a cursory map at 1"=11.4 kilometers do not serve to provide an adequate basis for concluding that seismic activity won't present a significant hazard for a 10,000 year project. Indeed, the impacts of such hazard(s) may prove to be insurmountable, given an adequate amount of research and testing. No decision concerning the approval of the proposed PFS facility can in good conscience be reached until such time as all reasonable trenching and testing of probable geo-seismic investigation are concluded according to standards of practice in the industry.

Having lived in earthquake areas throughout the state, the average resident of Utah is eminently qualified to comment on geo-seismic considerations and should not have been precluded from doing so by the DEIS review process. The purposeful alienation of the general public with respect to geo-seismic issues constitutes an environmental justice violation.

As indicated above, the nearest location of a radiological team and necessary management equipment is the West Coast. What would be the environmental impact of a cask that had been altered due to geo-seismic activity from the prescribed, upright position for a period exceeding 12 hours, or the time required to bring in a radiological team? What time frame is required to right all casks, assuming all could become altered due to a geo-seismic event? Is the "storage cask transporter" (Figure 2.9) capable of righting toppled casks? Has the procedure been adequately tested with loaded casks? Have tests for competency, other than computer simulations ever been conducted? Where is this data?

6-20 to 6-42 While numerous more significant environmental justice concerns have not been resolved, the majority of this section is dedicated to the semantics of what constitutes a "minority population" with respect to income and housing.

6-31, lines 29-38 The DEIS analysis of Cultural Resource Impacts mentions lands that have been "used by Native Americans for religious purposes, hunting and gathering foods and other plant material ...that figure prominently in the traditional practices and religion of the Native American". The characterization of relevant impacts as "quite possible that these resource services which the site provides to the Native Americans could be diminished", and that these services "are not unique to those areas of Skull Valley and are readily accessible elsewhere" is both disingenuous and inaccurate. It is not merely a matter of gaining access to lands and plant materials that might be used in religious practices, but rather the larger issue of having the land itself preserved for religious purposes, specifically a reverence for the landscape and the long-standing tradition of not violating the landscape by imposing any use that is alien to the Native American culture. Certainly, nuclear fuel storage is alien to any community and culture, and in particular to a Native American sub-culture. The question of distribution and re-distribution of

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accoutrements used in religious ceremonies does not comprise the more critical issue, which is a matter of respecting the land, which in and of itself is revered. This cultural prejudice and failure of the DEIS to acknowledge indigenous the Native American heritage and values constitutes a serious environmental justice violation.

*6-36, lines 10-19* The DEIS indicates that construction, operation and transport will "create a moderate impact to one resource listed on the NRHP and only minor adverse impacts to other cultural resources". Why are these resources not listed. Even after cross-referencing Sections 4.6 and 5.6 it is impossible to determine the extent such impacts. In this respect, the DEIS is evasive, inaccurate and appears to be purposefully misleading. The Hastings Cutoff Trail, for example, is not mentioned in the Executive Summary, yet is referenced in this section. What precluded the "additional recording and documentation of part of the Hastings Cutoff Trail" that "would be beneficial in expanding knowledge of this significant historical property"? Because the DEIS is negligent in not providing this "recording and documentation", it cannot provide a reasonable basis for concluding that "the cumulative impact to cultural resources is low".

Unique plant organisms known as cryptogamic crusts are a critical component of the West Desert ecosystem in the respect that they bind surface soils and infuse nitrogen, thereby preventing eolian soil erosion. These organisms and the unique symbiotic relationship with native soils is not identified, nor is the extent of impact imposed by large vehicle traffic.

In 1911, a significant botanical study of vegetation on the Goshute Reservation entitled "The Ethno-Botany of the Gosiute Indians of Utah" was conducted by Ralph V. Chamberlin, and is contained in Volume II, Part 5 of the "Memoirs of the American Anthropological Association" (re-printed in 1964). It is unfortunate that this study is not acknowledged or cited in the DEIS. The only context in which possible impacts related to vegetation are discussed is contained in sub-section 6.3.4, "Ecological Resources". Only 11 plant species are identified in sub-section 6.3.4.1.1, whereas Chamberlin identifies 334 separate species found within the reservation that are traditionally used for food and other purposes, an increase of 30.354%. Chamberlin identifies 7 plant species used by Goshutes for smoking and religious rites, along with another 68 species specifically used as traditional medicinal plants for a wide variety of ailments and diseases. The absence of any reference to specific plants used for religious rites and medicinal purposes in the DEIS constitutes a fatal flaw in the evaluation. Unavoidable impacts associated with the destruction of unique plant habitats constitutes a significant impact upon the natural environment and an environmental justice violation, given the Goshute's traditional cultural dependence upon natural medicines. The extent of these impacts is not identified by the DEIS.

*10-1, lines 2-29* This section provides a list of 9 federal agencies that have been consulted and "contacted to provide data, regulatory information, or jurisdictional information for use in this DEIS". Conspicuous by its absence is the Department of Defense (DOD). Insofar as the proposed site is virtually surrounded by the Dugway Bombing and the Test Range, this omission constitutes a fatal flaw in the DEIS, as well as all prior scoping and environmental assessments. Other than lightning, the single most likely cause of fire at the proposed facility is errant flares and/or other accidental discharges from military aircraft and missiles in the immediate area.

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Dugway Proving Ground is less than seven miles from the proposed "Restricted Area". Why has neither the DOD nor Hill Air Force Base provided comment? The DEIS does not reference a range fire ignited by a USAF flare that caused the complete devastation of all vegetation on Fremont Island, a range fire that could not be controlled. The distant proximity of Skull Valley to fire fighting equipment and manpower is comparable to the Fremont Island situation. What is not comparable, however, is the severe impact of fire at the proposed PFS facility that would also cause the release of radioactive poison for a half life of 10,000 years.

Even if the Air Force were to have been contacted, as any reasonable person would have assumed should have been accomplished by this point in the environmental evaluation, the DEIS could only have concluded that provision of a radiological team is not available at the USAF at Hill Field in Ogden, or from any other entity at any location within the entire Inter Mountain region. The nearest location of a radiological team and necessary management equipment is the West Coast, a minimum of 12-15 hours distant. What would be the environmental impact of a cask that had been altered from the prescribed, upright position for a period exceeding 12 hours, or the time required to bring in a radiological team? How long would it take to right all the casks? Is the "storage cask transporter" described by Figure 2.9 capable of righting toppled casks? If this is possible, has the procedure been adequately tested with loaded casks? What was the conclusion of this analysis?

Another valid consideration of an approval of the PFS facility is the downsizing or possible closure of the USAF Test Range due to its proximity to nuclear contaminants. The DEIS does not address this likely impact or the abating of national defense preparedness, as would be the result of an approval of the proposed PFS facility. The impact upon viable missile and aircraft testing would cause a relocation of the range elsewhere in the West Desert that will constitute enormous costs of additional NEPA evaluation, land acquisition, and the long-term costs associated with additional jet and missile fuel that are not presently applicable due to the relative close proximity to Hill Field. Another possible impact of the proposal is the relocation or closure of Hill Field, which would have an enormous impact upon the regional economy.

## CONCLUSION

Serious omissions and oversights are evident throughout the DEIS, particularly with respect to geo-seismic hazards that have been specifically mapped within the proposed site boundaries. By dismissing this obvious limitation to development as a matter for yet another venue, i.e. "safety" evaluation and exclusion from the DEIS process precludes comment by the general public. This is neither clever nor stealth, but simply dishonest. The future of Utah citizens is not served by the NRC's Spin Doctors who have failed to openly address this and many other critical issues. The DEIS fails to recognize viable alternatives. Impacts of terrorism and sabotage are not addressed. Additional unavoidable hazards associated with rail transport, such as derailment and collision are neither identified nor evaluated. The extensive duration of time that rail workers would be subjected to radiation is not addressed. Decommissioning is barely mentioned at all,

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causing one to conclude that the NRC really has no intention of ever abandoning the proposed Skull Valley facility. Our neighbors in Nevada experienced a comparable failure by the NRC to provide answers to many of these same issues as Yucca Mountain was ultimately evaluated in greater depth.

Yucca Mountain never can provide the answer to the dilemma of spent nuclear fuel storage for two significant reasons: (1) insofar as protection from leaks in the casks or other comparable enclosures cannot be absolutely assured, an adequate means of access to the rods at the depth(s) within the earth as is proposed by the Yucca Mountain plan renders maintenance infeasible; and (2) the same or very similar patterns of rail transport through Utah and other states will occur for both the Yucca Mountain and Skull Valley destinations, regardless of whichever facility may be developed initially. Only one minor consideration, the transport of spent rods from San Onofre which will not be transported through Utah distinguishes the two schemes. The Yucca Mountain proposal only serves to further emphasize the fallacy of the implied contention that transportation issues can be resolved once a "permanent" facility is constructed, for indeed, they cannot.

The DEIS represents that "on average, the proposed PFSF would receive one train each week carrying three or four loaded shipping casks per train" (see p. 2-19, lines 3-4). This, on average, would account for 52 shipments per year of up to 312 casks (up to six loaded casks can be accommodated by each "single-purpose" train). This would involve up to 12,480 casks during the next 40 years. However, recent legislation supported by the nuclear industry would enable an unprecedented increase in yearly shipments and total number of casks that could conceivably be shipped in 40 years, as is indicated below:

Year	Shipments	Casks	Sub-total
2001-06	52 ea. yr.	312	1,560
2007-08	1,200 ea. yr.	7,200	14,400
2009	2,600	15,600	15,600
2010	4,200	25,200	25,200
2011	6,200	12,066	12,066
2012-14	6,600 ea. yr.	39,600	118,800
2015-30	6,800 ea. yr.	40,800	612,000
2031-41	7,800 ea. yr.	46,800	780,000

1,579,626 total casks

Notwithstanding the likelihood that the nuclear power industry could probably not produce such incredible amounts of spent fuel rods, the nuclear industry has nevertheless been successful in supporting legislation for such an increase. Given the predictable increase in spent fuel rods, what additional rationale could have caused the industry and congress to allow for such an unprecedented increase in shipments of other nuclear wastes that are comparable to high-level spent fuel? What other types of nuclear waste are enabled for shipment to Skull Valley?

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It is estimated that approximately \$48,000,000 will be paid by PFS to the 20-plus Goshutes favoring the PFS proposal and Tooele County over the 40-year period. While there appear to be serious reasons to suggest the payment will be considerably less, even if this is true then from this most optimistic perspective the Goshutes and Tooele County will have relinquished 820 acres of PFS or "owner controlled area" for approximately \$58,636 per acre. However, insofar as payments will occur over a protracted time period thus diminishing actual value to less than \$12-15,000/acre, and land area rendered undevelopable or unusable for any other use will likely exceed 10,000 acres causing the initial value per acre of land that is affected to be reduced to approximately \$4,800, and less than \$1,200 over the time frame of 40 years. In reality, the amount of land which will be taken off the market for any type of viable use as a result of the PFS facility will likely exceed 50,000 to 100,000 acres, as adequate buffers against various confirmed psychological fears, especially among children, that are associated with nuclear radiation are both real and ominous. Over the time frame of 40 years, and given piecemeal payments by PFS, it is doubtful that anything over \$100/acre of impacted land will ever be achieved. With respect to the opportunity cost of land value obtained from alternative means, this constitutes a serious socio-economic impact not addressed by the DEIS, as all potential aspirations for alternative land uses will have been extinguished.

Environmental Justice violations constitute unavoidable impacts and become the most significant fatal flaws of the proposed action. The DEIS demonstrates inadequate analysis and prejudice in many areas. Numerous questions remain unresolved and many issues are not addressed at all. The determination that Native American Goshutes have been deprived by the federal government of numerous rights and privileges throughout the history of Western America does not provide a justifiable basis for the proposed action by simply handing over some cash at this point in the checkered history of their relations with the federal government. To the contrary, the DEIS should be searching for productive land use alternatives and encourage research opportunities to enhance and preserve the Native American heritage as a viable means of mitigating this historical injustice.

One aspect of the unique heritage of the Goshutes is expertise in ethno-botany, with particular reference to the use of native plants for medicinal purposes. This should have been addressed by the DEIS and must be regarded as an alternative for economic enhancement of the Goshute Band's local economy, a viable means of mitigating socio-economic impacts. We should initiate research in ethno-botany to develop traditional herbal medicines, and initiate other viable forms of economic development that will benefit the Goshute people. Only in this manner can we counteract the unfortunate offering of filthy lucre by PFS to perpetuate injustice, divide tribal members, and ultimately dissolve the Goshute nation.

The presupposition that a 6 lb. DEIS will serve to dignify this sham is unacceptable by any standard. Certainly, by the standard and spirit intended by the National Environmental Policy Act, this DEIS fails. In 1972, I was fortunate to have audited a Harvard Law School course taught by those instrumental in drafting NEPA and can assure the NRC and all others associated with this DEIS that the intent of NEPA has not been served by this document.

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According to the September 5th *Salt Lake Tribune* report of a meeting of the "High-Level Nuclear Waste Opposition Coordinating Council", in response to the position taken by Rep. Jim Hansen to introduce legislation "that would dramatically increase the liability insurance required of electric utilities wishing to ship their waste to Utah" PFS spokeswoman Sue Martin stated "It sounds like Congressman Hansen is trying to go around the federally mandated process for dealing with these types of issues". Allow me to remind PFS and the NRC that the federally mandated process is clearly defined by the National Environmental Policy Act. The Skull Valley DEIS provides abundant evidence that PFS and the NRC have been evasive, dishonest, misleading, unwilling to bring forward pertinent scientific facts, and on many counts have been attempting to go around this federally mandated process.

I don't agree with Congressman Hansen with respect to the proposed Yucca Mountain facility insofar as there are absolutely no conclusive studies that provide convincing evidence that transport of nuclear waste through Utah to Nevada can ever be safely accomplished. However, it is disingenuous to characterize Rep. Hansen as attempting to evade the process. Indeed, it has been PFS, the NRC, the BIA and the coalition of power companies who have pioneered and nearly perfected the trail of evasive protocol. Authors of the DEIS, a "pot who calls the kettle black" constructs a truly ironic litany of hypocrisy, suggesting proper process has been followed when copies of the report were not made available to the general public prior to the June hearing, and pertinent issues (i.e. geo-seismic, ethno-botany, rail safety) were never addressed. NEPA process does not condone furtive negotiations with "leaders" who've never been duly elected.

In the late 1940's, General Omar Bradley commented about our modern society's ethics related to nuclear management in this manner, "We have grasped the mystery of the atom and rejected the Sermon on the Mount ... Ours is a world of nuclear giants and ethical infants". The lack of ethics demonstrated by the Skull Valley DEIS provides sobering evidence that General Bradley was correct and prophetic, and with an ever increasing level of certainty. With all our learning and pontificating on nuclear physics, we've gained a pitiful amount of understanding, and have failed to recognize our responsibility to future generations. The DEIS is unethical.

Unlike Leon Bear who has fallen into the trap laid out by PFS and fails to understand the true spirit of NEPA's process and intent, 19th C. Native Americans understood the genuine spirit of NEPA, well before its time. They understood honorable land stewardship policies and reverence for the landscape. As he lay dying in 1871, Old Joseph, the revered Nez Perce leader offered the following advise to his son, Heinmot Tooyalaket, who came to be known as Chief Joseph:

"My son, my body is returning to my mother earth, and my spirit is going very soon to see the Great Spirit Chief. When I am gone, think of your country. You are the chief of these people. They look to you to guide them. Always remember that your father never sold his country. You must stop your ears whenever you are asked to sign a treaty selling your home. A few more years and the white men will be all around you. They have their eyes on this land. My son, never forget my dying words. This country holds your father's body. Never sell the bones of your father and mother."

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With respect to an "infantile ethic" that General Bradley ascribes to our modern-day nuclear stewards, Wassaja, a Mohave Apache (a.k.a. Carlos Montezuma, MD) made this prophetic observation relative to the Goshute land taking in an address to the Society of American Indians in 1915:

"The iron hand of the Indian Bureau has us in charge. The slimy clutches of horrid greed and selfish interests are gripping the Indian's property."

It is my considered observation that with respect to the federal government's environmental ethic, during the past 85 years very little has changed, at least until September 8, 2000. On this momentous date and as reported in the *Salt Lake Tribune* (September 9, 2000), Kevin Gover, head of the Bureau of Indian Affairs attested to the fact that injustice promulgated by the federal government has been a significant impact on Native Americans. The agency's "legacy of racism and inhumanity" includes forced relocations and attempts to erase cultural heritage, described as "ethnic cleansing", according to Mr. Gover, BIA Director. On behalf of the federal government, Mr. Gover promised Native Americans that "By accepting this legacy, we accept also the moral responsibility of putting things right. Never again will we attack your religions, your languages, your rituals, or any of your tribal ways". The Skull Valley DEIS contains serious inconsistencies and flagrant ethical lapses in "moral responsibility" as so aptly stated by Mr. Gover. In its obligation to objectively review of the PFS proposal and honestly recognize the long term impact the proposed facility will have on Native Americans, the BIA cannot by any stretch of one's imagination comply with the promise and commitment as stated by Kevin Gover.

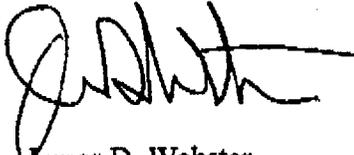
The DEIS fails so many tests of ethics and moral responsibility as to have become a sham, an otherwise irrelevant document serving the increasingly transparent purpose of attempting to provide a furtive means whereby the DOE can evade its responsibility of providing stewardship for spent fuel in a responsible manner, as was morally mandated at the advent of the Atomic Age. If the DEIS is to be believed and if justification for above ground storage in casks at Skull Valley has been verified, then this same means of storage is even more easily accomplished where the waste was generated, as complications and impacts resulting from shipping are inherently mitigated. However, if the DEIS cannot be trusted on these counts, then yet another environmental analysis and engineering response are required.

On September 13th, in his ruling with respect to the Wen Ho Lee case, U.S. District Judge James Parker said the Department of Energy had "embarrassed our entire nation and each of us who is a citizen of it". This unfortunate pattern of DOE's attempting to portray its management and administrative shortcomings upon a scape goat like Dr. Lee is unethical, immoral, and contrary to intent of the National Environmental Policy Act. The DOE's inability to find an adequate means of managing and storing spent nuclear fuel, however procrastinated, is not and cannot ever become the problem of the citizens of Utah, if ethics are pertinent. This onus is, always has been, and will continue to reside with the DOE who determined it was safe to build reactors and those citizens outside of Utah who elected to enjoy the economic benefits of their cheap energy.

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I'm pleased to have had the opportunity to review the Draft Environmental Impact Statement for the proposed PFS facility in Skull Valley. I look forward to the conscientious review of my concerns and comments and would certainly be willing to respond to any and all questions that may arise from the evaluation of my enclosed comments. I respect the public review process and acknowledge the good faith that is intended and mandated by the National Environmental policy Act. However, I do not believe the project can be justified on the basis of moral integrity, the evaluation of all pertinent factors including those not yet considered, and the ethic recently acknowledged by the BIA.

Respectfully submitted,



James D. Webster

cc: Judge G. Paul Bollwerk III, Atomic Safety and Licensing Board Panel, Mail Stop T-3F23,  
U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Fax # (301) 415-5599.  
Office of the Secretary, Rulemakings and Adjudications Staff, U.S. Nuclear Regulatory  
Commission, Washington, D.C. 20555-0001. Fax # (301) 415-1101