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JAN GRAHAM
ATTORNEY GENERAL

JAMES R. SOPER
Solicitor General

October 4, 2000

REED RICHARDS
Chief Deputy Attorney General

David L. Meyer,
Chief, Rules 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

re: Comments on the Draft Environmental Impact Statement
for the Construction and Operation of an ISFSI on the Reservation of the
Skull Valley Band of Goshute Indians and the Related Transportation Facility
NRC Docket No. 72-22, ISFSI, Private Fuel Storage, LLC

Dear Mr. Meyer:

In accordance with our telephone conversation today, and as required by 10 CFR § 51.16(b), attached hereto is a non-proprietary copy of the State's proprietary comments submitted to you on September 27, 2000. I have confirmed with counsel for the Applicant that the attached portion of the State's comments does not contain proprietary information. The remainder of the State's comments should be treated as proprietary unless ERI is willing to allow those comments to be released as a public document.

The State appreciates the Staff's willingness to review the State's comments in their entirety. Also, thank you for your efforts to resolve the procedural issues involved with handling proprietary information.

Sincerely,

Denise Chancellor
Assistant Attorney General

cc: Paul Gaukler, Shaw Pittman
ERI

ERIDS 03

Add Scott Elanders
(SCF)

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COMMENTS SUBMITTED BY THE STATE OF UTAH
September 27, 2000

on the

**THE NRC STAFF'S DEIS COST BENEFIT ANALYSIS IN LIGHT OF
STAFF'S RELIANCE ON ERI'S MATHEMATICAL MODELING OF THE
MARKET FOR THE PROPOSED PFS FACILITY**

**NUREG-1714
DRAFT ENVIRONMENTAL IMPACT STATEMENT (DEIS)
For the Construction and Operation of an
Independent Spent Fuel Storage Installation
on the Reservation of the Skull Valley Band
of Goshute Indians and Related Transportation
Facility in Tooele County, Utah**

**DOCKET NO. 72-22
Private Fuel Storage (PFS), LLC**

**U. S. NUCLEAR REGULATORY COMMISSION
Office of Nuclear Material Safety and Safeguards
DEPARTMENT OF THE INTERIOR
Bureau of Indian Affairs
Bureau of Land Management
DEPARTMENT OF TRANSPORTATION
Surface Transportation Board**

**DEPARTMENT OF THE INTERIOR
Bureau of Land Management
PONY EXPRESS RESOURCE MANAGEMENT PLAN (RMP)
UT-020-00-5101-ER-J206, U-76985**

I. Introduction

Chapter 8 of the DEIS ¹ addresses the Benefits and Costs of the proposed action. DEIS, Section 8.1.1 lines 13-19, PFS's Model and Assumptions, states:

The detailed chain of logic for PFS's assumptions and calculations is described in *Utility At-Reacto Spent Fuel Storage Costs for the Private Fuel Storage Facility Cost-Benefit*

¹ NUREG -1714, *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*, June 2000.

Analysis Revision 2, ER-2025-0001, April 2000. This report was generated by PFS's contractor, Energy Resources International (ERI), in response to the staff's request for additional information. A summary of that report is provided below.

The following comments are based on proprietary information the State has obtained from ERI on September 15, 2000, and is supplemental to and not duplicative of the State's DEIS comments dated September 20, 2000. A discussion of the proprietary nature of the information and justification of filing late comments follows. In addition to the following discussion, a letter from Assistant Attorney General Denise Chancellor to Mr. David L. Meyer, Chief, Rules and Directives Branch, more fully describes the proprietary nature of the State's comments and the justification for filing the comments after September 21, 2000.

A. Proprietary Information

[REDACTED: MAY CONTAIN PROPRIETARY INFORMATION]

B. Justified Late-Filed Comments

[REDACTED: MAY CONTAIN PROPRIETARY INFORMATION]

C. Overview of the State's Comments²

It is extremely difficult at this time to provide an in-depth analysis of the Staff's presentation in Chapter 8 of the DEIS, given the Staff's reliance on ERI's 12 scenario mathematical model and the timing of the State's receipt of the proprietary electronic ERI data. Notwithstanding these difficulties, and noting that the conclusions set forth below are somewhat tentative given the limited time allowed for this review, it is possible to provide a number of examples or areas where the ERI analysis is pointedly unreasonable or flies in the face of actual practice or clear opportunities in the industry to address the SNF storage problem on a least cost basis.

These comments support the following general conclusions:

1. The ERI report is based on assumptions that unreasonably compound the cost of addressing the need for SNF storage in any manner other than via PFS;
2. ERI ignores a wide variety of more cost effective measures that utilities have historically and will continue to implement to minimize the cost of SNF storage;
3. ERI either ignores or assumes away any factors—especially timing factors—which would show the proposed PFS facility is not viable under circumstances which are just as likely to occur as those chosen by ERI to favor PFS;
4. Relying on and expanding upon the ERI analyses, the Staff has adopted unreasonable assumptions about costs and other factors which clearly biases the analysis in favor of the proposed PFS facility.

The economic viability of the proposed PFS facility depends upon a numbers of factors including, most prominently, the following seven: (1) when PFS opens; (2) when PFS closes; (3) when the DOE repository opens; (4) timing issues among reactors, DOE and the proposed PFS ISFSI; (5) costs in relationship to risk; (6) at-reactor ISFSI timing; and (7) demand for the PFS facility.

The review that follows focuses on how the Staff and ERI address each of these factors and whether their approach and the conclusions they draw from it are reasonable.

² 10 CFR § 51.16(b) states that when submitting proprietary information, a non-proprietary summary should also be provided. This overview section may be disclosed as non-proprietary information, but in offering this summary the State does not concede that the State's comments can be reduced to this summary overview.

II. Comments

[REDACTED PAGES 4-16: MAY CONTAIN PROPRIETARY INFORMATION]