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UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

December 1, 2000

The Honorable Leon D. Bear, Chairman
Skull Valley Band of Goshute Indians
2480 South Main, No. 110
Salt Lake City, UT 84115

SUBJECT: REQUEST FOR CONCURRENCE ON DETERMINATION OF ADVERSE EFFECTS FOR THE ARCHEOLOGICAL AND HISTORIC SITES IDENTIFIED WITHIN THE AREA OF POTENTIAL EFFECTS AND DRAFT MEMORANDUM OF AGREEMENT FOR THE PROPOSED PRIVATE FUEL STORAGE FACILITY

Dear Chairman Bear:

As you are aware, Private Fuel Storage, Limited Liability Company (PFS) proposes to construct and operate an independent spent fuel storage installation (ISFSI) on the Reservation of the Skull Valley Band of Goshute Indians. The U.S. Nuclear Regulatory Commission (NRC), in cooperation with the U.S. Department of Interior's Bureau of Indian Affairs (BIA) and Bureau of Land Management (BLM), and the Surface Transportation Board (STB) have offered Federally recognized Indian tribes and other organizations that may be concerned with the possible effects of the project on historic properties an opportunity to participate in the consultation process required by Section 106 of the National Historic Preservation Act.

In May and June of 1999 and in June 2000, a PFS contractor, P-III Associates, performed a Class III cultural resources inventory in Skull Valley, Utah. All portions of the Area of Potential Effect (APE) were included in the study area. PFS provided consulting parties with a copy of the report documenting the cultural resources located within the APE. For all sites within the APE, the report includes a recommendation with regard to each site's eligibility for inclusion in the National Register of Historic Places.

The cooperating Federal agencies reviewed the cultural resources inventory report and concur with the eligibility determinations. Furthermore, we requested the consulting parties' concurrence on these eligibility determinations. Also, during the week of October 23-27, 2000, the cooperating Federal agencies met with representatives of the consulting parties to discuss the eligibility recommendations included in the report and potential mitigation measures for anticipated adverse impacts to the cultural resources within the APE. Based on these meetings, a consensus determination of eligibility on historic properties has been reached. Enclosure 1 is a list of the eligible sites, sites that are not eligible, and the criteria for determining if a site qualifies for inclusion in the National Register of Historic Places.

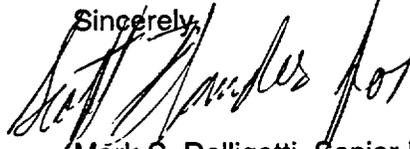
Pursuant to 36 CFR 800.5, an adverse effect is found when a project may alter, directly or indirectly, any of the characteristics of a historic property that qualifies the property for inclusion in the National Register of Historic Places in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling or association. Based on these criteria, the cooperating Federal agencies have determined that the proposed project will have adverse effects on properties that are eligible for inclusion in the National Register of Historic Places.

December 1, 2000

As a consequence of the finding of adverse effect, a draft Memorandum of Agreement (Agreement) has been developed that outlines agreed-upon measures that PFS will take to avoid, minimize, or mitigate these adverse effects (Enclosure 2). The cooperating Federal agencies request your concurrence on the determination of adverse effects and comments regarding the draft Agreement within 30 days.

If you have any questions, please contact Scott Flanders (NRC) at (301) 415-1172, Laird Naylor (BLM) at (801) 977-4357, Garry Cantley (BIA) at (602) 379-6750, or Phillis Johnson-Ball (STB) at (202) 565-1530.

Sincerely,



Mark S. Delligatti, Senior Project Manager
Spent Fuel Licensing Section
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-22

Enclosure: 1. List of Eligible and Non-Eligible Sites
2. Draft Memorandum of Agreement

cc: PFS Service Lists
Natalie Gochnour, State Planning Coordinator

As a consequence of the finding of adverse effect, a draft Memorandum of Agreement (Agreement) has been developed that outlines agreed-upon measures that PFS will take to avoid, minimize, or mitigate these adverse effects (Enclosure 2). The cooperating Federal agencies request your concurrence on the determination of adverse effects and comments regarding the draft Agreement within 30 days.

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Sincerely,

Original Signed By
Scott Flanders fr

Mark S. Delligatti, Senior Project Manager
Spent Fuel Licensing Section
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-22

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- 2. Draft Memorandum of Agreement

cc: PFS Service Lists
Natalie Gochnour, State Planning Coordinator

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(13 IDENTICAL LETTERS)

CULTURAL RESOURCES INVENTORY

I. Sites eligible for inclusion in the National Register of Historic Places.

<u>Site Number</u>	<u>Site Name</u>	<u>Criteria</u>	<u>Effect</u>
42TO709	Emigrant Trail/Hastings Cutoff	A, B	Adverse
42TO1409	U.S. Route 40	A	Adverse
42TO1410	"New" Victory Highway	A, B, C	Adverse
42TO1411	"Old" Victory Highway	A	Adverse
42TO1412	Western Union telegraph line	A	Adverse
42TO1413	Western Pacific Railroad	A, C	Adverse
42TO1416	Road to Deep Creek	A, B	Adverse
42TO1417	Road to Sulphur Spring or Eight-Mile Spring	A	Adverse

II. Sites not eligible for inclusion in the National Register of Historic Places.

<u>Site Number</u>	<u>Site Name</u>
42TO1414	Historic habitation/gas station
42TO1415	Gas Station
42TO1343	Buried AT&T telephone line

III. Sites not evaluated for inclusion in the National Register of Historic Places.

<u>Site Number</u>	<u>Site Name</u>
42TO1187	Rock alignment and cairns

DRAFT

MEMORANDUM OF AGREEMENT

among the

**U.S. NUCLEAR REGULATORY COMMISSION,
U.S. DEPARTMENT OF THE INTERIOR, BUREAU OF INDIAN AFFAIRS,
WESTERN REGIONAL OFFICE,
U.S. DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT,
SALT LAKE FIELD OFFICE,
U.S. SURFACE TRANSPORTATION BOARD,
SKULL VALLEY BAND OF GOSHUTE INDIANS,
UTAH STATE HISTORIC PRESERVATION OFFICER,
ADVISORY COUNCIL ON HISTORIC PRESERVATION**

and

PRIVATE FUEL STORAGE, L.L.C,

regarding 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**

WHEREAS, the cooperating Federal agencies, the U.S. Nuclear Regulatory Commission (NRC), U.S. Department of the Interior, Bureau of Indian Affairs (BIA), Western Regional Office, U.S. Department of the Interior, Bureau of Land Management (BLM), Salt Lake Field Office, and U.S. Surface Transportation Board (STB) propose to approve the Private Fuel Storage, L.L.C. (PFS) Project (hereafter the Project), described as the preferred alternative on page 9-xx of the Final Environmental Impact Statement, dated February 2001, on the Reservation of the Skull Valley Band of Goshute Indians in Tooele County, Utah; and,

WHEREAS, the cooperating Federal agencies have established the Project's Area of Potential Effect (APE), as defined at 36 CFR 800.16(d), as shown in Figures 1-2 of the Class III Cultural Resource Inventory of the Private Fuel Storage Project Area in Skull Valley, Tooele County, Utah, (hereafter the Report); and,

WHEREAS, the cooperating Federal agencies have determined that the Project will have adverse effects on historic properties within the APE; several of these properties have been determined to be eligible for inclusion on the National Register of Historic Places through application of the criteria at 36 CFR 60.4; a list of these properties and their eligibility and effect determinations are presented in Enclosure 1; and,

WHEREAS, the cooperating Federal agencies have consulted with the Advisory Council on Historic Preservation (hereafter the Council) pursuant to Section 800.2 of the regulations (36 CFR Part 800) implementing Section 106 of the National Historic Preservation Act (the Act) to resolve the adverse effects of the Project on historic properties; and,

WHEREAS, the cooperating Federal agencies have contacted the Utah State Historic Preservation Officer (SHPO) and invited the SHPO to consult on this Memorandum of Agreement (Agreement); and,

WHEREAS, the cooperating Federal agencies have consulted with the Skull Valley Band of Goshute Indians (Skull Valley Band), a Federally recognized Indian Tribe, organized under Section 16 of the Indian Reorganization Act of 1934, which exercises general governmental jurisdiction over all lands of the Reservation of the Skull Valley Band, and for purposes of this consultation is an Indian tribe as described at 36 CFR 800.3(d), regarding this Agreement; and,

WHEREAS, no provision of this Agreement will be construed by any of the signatories as abridging or debilitating any sovereign powers of the Skull Valley Band; affecting the trustee-trustor relationship between the Secretary of the Interior, Skull Valley Band, and Indian landowners; or interfering with the government-to-government relationship between the United States and the Skull Valley Band; and,

WHEREAS, pursuant to 36 CFR 800.2, the cooperating Federal agencies have consulted with The Confederated Tribes of the Goshute Reservation, The Tribal Council of the Te-Moak Western Shoshone Indians of Nevada, Paiute Indian Tribe of Utah, Ohngo Gaudadeh Devia, and Utah Historic Trail Consortium regarding this Agreement; and,

WHEREAS, pursuant to 36 CFR 800.2(c)(5), the cooperating Federal agencies have consulted with Private Fuel Storage, Limited Liability Company (PFS), the applicant for the Project; and,

WHEREAS, the cooperating Federal agencies, as part of the National Environmental Policy Act (NEPA) review process, have sought public comments and notified the public of the potential effects of the Project on historic properties as required in 36 CFR Part 800 and have considered the applicable requirements of Section 106 of the National Historic Preservation Act in the course of consultation; and,

WHEREAS, a Class III Inventory, the purpose of which is the identification of prehistoric sites, historic sites and structures, and cultural landscapes that may be affected by the Project, has been conducted, and a report on the results of the Class III Inventory (the Report) has been provided to the cooperating Federal agencies and to the signatory and concurring parties through submission in September and October 2000; and,

WHEREAS, the cooperating Federal agencies, in consultation with the other signatory and concurring parties to this Agreement agree to avoid, minimize, or mitigate any adverse effects to historic properties; and the signatory and the signatory and concurring parties shall discuss how any adverse effects to historic properties will be mitigated in a Treatment Plan to be approved by the signatory parties.

NOW, THEREFORE, the signatory parties agree that if approved, the Project shall be implemented in accordance with the following stipulations in order to take into account the effects of the Project on historic properties and that these stipulations shall govern the Project and all of its parts until the Agreement expires or is terminated.

STIPULATIONS

The cooperating Federal agencies shall ensure that the following measures are carried out:

I. Development of Treatment Plan (for Eligible Resources)

a. The Treatment Plan will identify (1) all eligible historic properties in the APE or segment thereof, (2) the nature of the effects to which each property will be subjected, and (3) the treatment strategies proposed to avoid, minimize, or mitigate the effects of the Project. The Treatment Plan will be submitted by the NRC to the other signatory and concurring parties for 30 day review. The Treatment Plan will be consistent with the Secretary of the Interior's "Standards and Guidelines for Archaeological Documentation" (48 FR 44734-37) and will take into account the Council's publication, "Treatment of Archaeological Properties" (1980). Unless any signatory or concurring party objects to the Treatment Plan within 30 days after receipt of the plan, NRC shall ensure that it is implemented prior to construction.

b. The Treatment Plan shall specify:

1. The properties where data recovery is to be carried out,
2. The research questions to be addressed through data recovery, with an explanation of their relevance and importance,
3. The field and laboratory analysis methods to be used, with an explanation of their relevance to the research questions,
4. The methods to be used in analysis, data management, and dissemination of data to the professional community, including a schedule,
5. The disposition and curation of recovered materials and records,
6. A proposed schedule for the submission of draft and final reports to appropriate signatory and concurring parties, and
7. In the event burials/human remains are discovered, a plan will be developed which identifies methods and procedures for the recovery, treatment, and disposition of Human Remains, Associated Funerary Objects, and Objects of Cultural Patrimony.

c. Failure to Comment on Treatment Plan

Failure to comment within 30 days after receipt of the Treatment Plan will be presumed to represent concurrence with the Treatment Plan, except that the Treatment Plan may not be implemented before the BLM has issued an Archaeological Resources Protection Act (ARPA) permit authorizing the investigations required by the Treatment Plan.

d. Revisions to the Treatment Plan

If any signatory or concurring party requests revisions to the Treatment Plan, NRC shall provide the parties to this Agreement 20 days from receipt to review and comment upon the proposed revisions.

e. Treatment Plan Report Preparation and Review

Within 180 days of completion of field work, a report will be prepared incorporating all appropriate data analysis and interpretations. The report will be submitted to signatory and concurring parties who will be provided 30 days to review and comment upon the report. Failure to comment 30 days after receipt of the report will be presumed to represent concurrence with the report.

f. Curation

All materials and records resulting from the Treatment Plan will be curated in accordance with standards and guidelines generated by BLM.

II. Implementation of Treatment Plan

a. The cooperating Federal agencies will ensure, to the extent possible within their jurisdiction and legal authority, that PFS implements the approved Treatment Plan, which will address the adverse effects of the Project on historic properties. The Treatment Plan will include all of the elements described above under Stipulation I.

III. Construction

a. Upon issuance of the authorizations requested from the cooperating Federal agencies, the cooperating Federal agencies will allow PFS to begin construction in those portions of the APE that have been subjected to the Class III Inventory and do not contain eligible historic properties.

b. Where eligible properties are present, PFS will notify the cooperating Federal agencies when treatment is completed for an area. Within 45 calendar days of notification, BLM will review the document. Upon BLM concurrence that the treatment has been satisfactorily completed, BLM will notify PFS and the other cooperating Federal agencies. The cooperating Federal agencies will then allow construction to proceed in that area.

IV. Discovery

a. A Discovery Plan for previously unencountered sites will be appended to the Treatment Plan. If a previously undiscovered archaeological, historical, or cultural property is encountered during construction or previously known properties will be affected in an unanticipated manner, all work will cease within 200 feet in all directions of the property until the cooperating Federal agencies can evaluate and, if necessary, authorize steps to mitigate impacts to the property. Evaluation and mitigation will be carried out in consultation with the signatory and concurring parties to this Agreement as expeditiously as possible in accordance with 36 CFR 800.13(b).

b. If cultural properties are encountered on Federal lands, the agency controlling the land will be consulted to develop appropriate mitigation measures. PFS will provide the construction

contractor with written notification of the proper protocol for reporting discovery of previously unencountered sites.

V. Changes in the Area of Potential Effects

a. If a change in the APE is determined to be necessary, the cooperating Federal agencies will initiate review, evaluation, and determination of effects in consultation with signatory and concurring parties and ensure that any such change is inventoried or treated in a manner consistent with this Agreement.

b. Where no historic property is present or will be affected, the cooperating Federal agencies shall consult with and submit documentation to the signatory and concurring parties. If all parties agree to the adequacy of documentation or no adverse comment is received from parties other than the cooperating Federal agencies within 15 days of receipt, the cooperating Federal agencies may assume concurrence.

c. Where an historic property will be affected and is the same property type as addressed in the Treatment Plan, PFS shall consult with and submit documentation to the signatory and concurring parties to determine applicability of the existing plan. If all cooperating Federal agencies agree to the adequacy of documentation and the determination or no adverse comment from parties other than the cooperating Federal agencies is received within 15 days of receipt, the cooperating Federal agencies may assume concurrence.

d. Where an historic property will be affected but is not the same property type as addressed by the Treatment Plan, PFS shall consult with the signatory and concurring parties to develop a Supplemental Treatment Plan to mitigate the adverse effects to the newly recorded property type. PFS shall submit the Supplemental Treatment Plan to the cooperating Federal agencies for review. If all cooperating Federal agencies agree to the adequacy of the Supplemental Treatment Plan or no adverse comment is received from the other parties within 30 days of receipt, the cooperating Federal agencies may assume concurrence. Once finalized, the Supplemental Treatment Plan will be submitted to the Council for its information.

VI. Confidentiality

a. The cooperating Federal agencies shall ensure that all sensitive material, as defined in Section 9 of the ARPA and Section 304 of the Act, is managed in such a way that historic properties, traditional cultural values, and sacred objects are not compromised, to the fullest extent available under law.

b. Each signatory and concurring party to this Agreement shall safeguard information about the nature and location of archaeological, historic, and traditional cultural properties and not reveal that information to any additional party, pursuant to Section 304 of the Act and Section 9 of the ARPA, without the express written permission of the cooperating Federal agencies.

VII. Dispute Resolution

a. Should any signatory party to this Agreement object to any actions pursuant to this Agreement within 30 calendar days of initiation of that action, the cooperating Federal agencies shall consult with the objecting party to resolve the objection. The objection must be identified specifically and the reasons for the objection documented. If the cooperating Federal agencies determined that an objection cannot be resolved, the cooperating Federal agencies shall forward all documentation relevant to the dispute to the Council in accordance with 36 CFR 800.2(b)(2).

b. The Council will, within 45 calendar days of receipt of all pertinent documentation, either:

1. Provide the cooperating Federal agencies with a recommendation. (Any comments provided by the Council and all comments from the parties to this Agreement will be taken into account by the cooperating Federal agencies in reaching a final decision regarding the dispute.) or

2. Notify the cooperating Federal agencies that it will comment pursuant to 36 CFR Part 800.7 and proceed to comment. (Any Council comment provided in response to such a request will be taken into account by the cooperating Federal agencies in accordance with 36 CFR Part 800.7(c)(4) with reference to the subject of the dispute.)

c. The cooperating Federal agencies' responsibility to carry out all other actions subject to the terms of this Agreement that are not the subject of the dispute remain unchanged. The cooperating Federal agencies will notify all parties of their decision in writing before implementing that portion of the Project subject to dispute under this stipulation. The cooperating Federal agencies' decision will be final.

d. Any recommendation or comment provided by the Council will be understood to pertain only to the subject of the dispute; and no additional work shall occur within 200 feet of the area of the dispute until resolution of said dispute. The cooperating Federal agencies' responsibility to carry out all actions under this Agreement that are not the subject of the dispute will remain unchanged.

VIII. Effective Date

This Agreement shall become effective when executed by the authorized representatives of each party. This Agreement will become effective on the date that the cooperating Federal agencies receive the last signature from a signatory party. The cooperating Federal agencies shall ensure that each party is provided with a copy of the fully executed Agreement.

IX. Amendments

If any signatory of this Agreement determines that its term will not or cannot be carried out or that an amendment to its terms is needed, that party shall immediately notify the cooperating

Federal agency and request an amendment. The parties of this Agreement will consult to consider such amendment in accordance with 36 CFR 800.14(b).

X. Termination

Any signatory party to this Agreement may terminate it by providing 30 calendar days notice, in writing, to the other parties, provided that the parties will consult during the period prior to termination to seek agreement or amendments or other action that would avoid termination. In the event of a termination, the cooperating Federal agencies will comply with 36 CFR Part 800.4 through 800.6 with regard to this Project. This Agreement will remain in effect until construction of the rail line and PFS facility ceases. Prior to that date, the signatories will consult to determine whether it should be amended, terminated, or remain in force, after which the Agreement will automatically terminate unless it is amended or the expiration date extended by written agreement of the signatory parties.

XI. Failure to Carry Out Terms

Failure on the part of the cooperating Federal agencies to carry out the terms of this Agreement requires that the cooperating Federal agencies again request the Council's comments. If the cooperating Federal agencies cannot carry out the terms of this Agreement, they shall not sanction any action or make any irreversible commitment that would foreclose the Council's consideration of alternatives to avoid or mitigate adverse effects, until such time as the commenting process has been completed. Failure on the part of PFS to carry out the terms of this Agreement requires that PFS notify the cooperating Federal agencies. If PFS cannot carry out the terms of this Agreement, it shall not take any action that would result in any irreversible commitment that would foreclose the cooperating Federal agencies' consideration of alternatives to avoid or mitigate adverse effects.

XII. Execution of this Agreement

Execution and implementation of this Agreement evidences that the cooperating Federal agencies have afforded the Council a reasonable opportunity to comment on the Project and its effects on historic properties and that the cooperating Federal agencies have taken into account the effects of the Project on historic properties.

SIGNATORY CONSULTING PARTIES:

U.S. NUCLEAR REGULATORY COMMISSION

By: _____
Date: _____

U.S. DEPARTMENT OF THE INTERIOR, BUREAU OF INDIAN AFFAIRS

By: _____
Date: _____

U.S. DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT

By: _____
Date: _____

U.S. SURFACE TRANSPORTATION BOARD

By: _____
Date: _____

SKULL VALLEY BAND OF GOSHUTE INDIANS

By: _____
Date: _____

PRIVATE FUEL STORAGE, L.L.C.

By: _____
Date: _____

UTAH STATE HISTORIC PRESERVATION OFFICER

By: _____
Date: _____

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: _____
Date: _____

INVITED CONSULTING PARTIES:

CONFEDERATED TRIBES OF THE GOSHUTE RESERVATION

By: _____
Date: _____

TRIBAL COUNCIL OF THE TE-MOAK WESTERN SHOSHONE INDIANS OF NEVADA

By: _____
Date: _____

PAIUTE INDIAN TRIBE OF UTAH

By: _____
Date: _____

UTAH HISTORIC TRAILS CONSORTIUM

By: _____
Date: _____

OHNGO GAUDADEH DEVIA

By: _____
Date: _____

cc's for PFS EIS:

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Private Fuel Storage

cc:

**Mr. John D. Parkyn
Chairman of the Board
Private Fuel Storage, L.L.C.
P. O. Box C4010
La Crosse, WI 54602-4010**

**Mr. Scott Northard, Project Manager
Private Fuel Storage, L.L.C.
c/o Northern States Power
414 Nicollet Mall, Ren Square 7
Minneapolis, MN 55401**

**The Honorable Michael O. Leavitt
Governor of Utah
Salt Lake City, UT 84114-0601**

**The Honorable Leon D. Bear, Chairman
Skull Valley Band of Goshute Indians
2480 South Main, No. 110
Salt Lake City, UT 84115**

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Washington, D.C. 20036**



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

December 1, 2000

The Honorable Milton J. Hooper, Chairman
Confederated Tribes of the Goshute Reservation
P.O. Box 6104
Ibapah, UT 84034

SUBJECT: REQUEST FOR CONCURRENCE ON DETERMINATION OF ADVERSE EFFECTS FOR THE ARCHEOLOGICAL AND HISTORIC SITES IDENTIFIED WITHIN THE AREA OF POTENTIAL EFFECTS AND DRAFT MEMORANDUM OF AGREEMENT FOR THE PROPOSED PRIVATE FUEL STORAGE FACILITY

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Chairman Hooper

-2-

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Sincerely,

A handwritten signature in black ink, appearing to read "Mark S. Delligatti" with a date "1/07" written at the end.

Mark S. Delligatti, Senior Project Manager
Spent Fuel Licensing Section
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-22

Enclosure: 1. List of Eligible and Non-Eligible Sites
2. Draft Memorandum of Agreement

cc: PFS Service Lists
Natalie Gochnour, State Planning Coordinator

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Sincerely,

/RA/ original signed by /s/
Scott Flanders for

Mark S. Delligatti, Senior Project Manager
Spent Fuel Licensing Section
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-22

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OFC:	SFPO ✓	E	DWM		SFPO	E	OGO ^{by telephone}		SFPO		SFPO
NAME:	SFlanders		MWong <i>MW</i>		VTharpe		STurk		MDelligatti		SShankman
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UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

December 1, 2000

Ms. Natalie Gochnour
Utah State Planning Coordinator
Room 116 State Capitol
Salt Lake City, Utah 84114

SUBJECT: REQUEST FOR CONCURRENCE ON DETERMINATION OF ADVERSE EFFECTS FOR THE ARCHEOLOGICAL AND HISTORIC SITES IDENTIFIED WITHIN THE AREA OF POTENTIAL EFFECTS AND DRAFT MEMORANDUM OF AGREEMENT FOR THE PROPOSED PRIVATE FUEL STORAGE FACILITY

Dear Ms. Gochnour:

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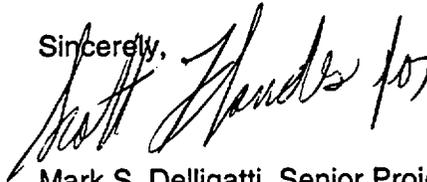
N. Gochnour

-2-

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Mark S. Delligatti, Senior Project Manager
Spent Fuel Licensing Section
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-22

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/RA/ original signed by /s/
Scott Flanders for

Mark S. Delligatti, Senior Project Manager
Spent Fuel Licensing Section
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-22

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

December 1, 2000

Mr. John D. Parkyn
Chairman of the Board
Private Fuel Storage, L.L.C.
P.O. Box C4010
La Crosse, WI 54602-4010

SUBJECT: REQUEST FOR CONCURRENCE ON DETERMINATION OF ADVERSE EFFECTS FOR THE ARCHEOLOGICAL AND HISTORIC SITES IDENTIFIED WITHIN THE AREA OF POTENTIAL EFFECTS AND DRAFT MEMORANDUM OF AGREEMENT FOR THE PROPOSED PRIVATE FUEL STORAGE FACILITY

Dear Mr. Parkyn:

As you are aware, Private Fuel Storage, Limited Liability Company (PFS) proposes to construct and operate an independent spent fuel storage installation (ISFSI) on the Reservation of the Skull Valley Band of Goshute Indians. The U.S. Nuclear Regulatory Commission (NRC), in cooperation with the U.S. Department of Interior's Bureau of Indian Affairs (BIA) and Bureau of Land Management (BLM), and the Surface Transportation Board (STB) have offered Federally recognized Indian tribes and other organizations that may be concerned with the possible effects of the project on historic properties an opportunity to participate in the consultation process required by Section 106 of the National Historic Preservation Act.

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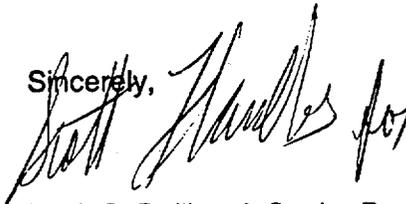
J. Parkyn

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Sincerely,

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Mark S. Delligatti, Senior Project Manager
Spent Fuel Licensing Section
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-22

Enclosure: 1. List of Eligible and Non-Eligible Sites
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cc: PFS Service Lists
Natalie Gochnour, State Planning Coordinator

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/RA/ Original signed by /s/

Scott Flanders for
Mark S. Delligatti, Senior Project Manager
Spent Fuel Licensing Section
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-22

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

December 1, 2000

Mr. Alan Stanfill
Advisory Council on Historic Preservation
12136 West Bayaud Avenue, #330
Lakewood, CO 80226

SUBJECT: REQUEST FOR CONCURRENCE ON DETERMINATION OF ADVERSE EFFECTS FOR THE ARCHEOLOGICAL AND HISTORIC SITES IDENTIFIED WITHIN THE AREA OF POTENTIAL EFFECTS AND DRAFT MEMORANDUM OF AGREEMENT FOR THE PROPOSED PRIVATE FUEL STORAGE FACILITY

Dear Mr. Stanfill:

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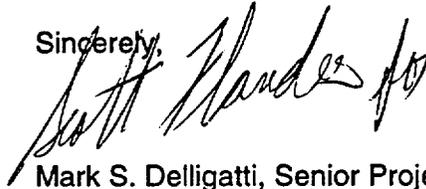
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Sincerely,

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Mark S. Delligatti, Senior Project Manager
Spent Fuel Licensing Section
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-22

Enclosure: 1. List of Eligible and Non-Eligible Sites
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cc: PFS Service Lists
Natalie Gochnour, State Planning Coordinator

A. Stanfill

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/RA/ original signed by /s/
Scott Flanders for

Mark S. Delligatti, Senior Project Manager
Spent Fuel Licensing Section
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-22

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

December 1, 2000

The Honorable Elwood Mose, Chairperson
Tribal Council of the Te-Moak Tribe
of Western Shoshone Indians of Nevada
525 Sunset Street
Elko, Nevada 89801

SUBJECT: REQUEST FOR CONCURRENCE ON DETERMINATION OF ADVERSE EFFECTS FOR THE ARCHEOLOGICAL AND HISTORIC SITES IDENTIFIED WITHIN THE AREA OF POTENTIAL EFFECTS AND DRAFT MEMORANDUM OF AGREEMENT FOR THE PROPOSED PRIVATE FUEL STORAGE FACILITY

Dear Chairman Mose:

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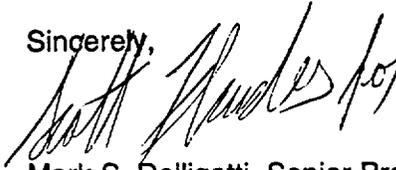
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Sincerely,



Mark S. Delligatti, Senior Project Manager
Spent Fuel Licensing Section
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-22

Enclosure: 1. List of Eligible and Non-Eligible Sites
2. Draft Memorandum of Agreement

cc: PFS Service Lists
Natalie Gochnour, State Planning Coordinator

Chairman Mose

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Sincerely,

/RA/ original signed by /s/
Scott Flanders for

Mark S. Delligatti, Senior Project Manager
Spent Fuel Licensing Section
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-22

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

December 1, 2000

The Honorable Geneal Anderson, Chairperson
Paiute Indian Tribe of Utah
440 North Paiute Drive
Cedar City, UT 84720

SUBJECT: REQUEST FOR CONCURRENCE ON DETERMINATION OF ADVERSE EFFECTS FOR THE ARCHEOLOGICAL AND HISTORIC SITES IDENTIFIED WITHIN THE AREA OF POTENTIAL EFFECTS AND DRAFT MEMORANDUM OF AGREEMENT FOR THE PROPOSED PRIVATE FUEL STORAGE FACILITY

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Chairperson Anderson

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Spent Fuel Licensing Section
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Sincerely,

/RA/ original signed by /s/
Scott Flanders for

Mark S. Delligatti, Senior Project Manager
Spent Fuel Licensing Section
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-22

- Enclosure: 1. List of Eligible and Non-Eligible Sites
- 2. Draft Memorandum of Agreement

cc: PFS Service Lists
Natalie Gochnour, State Planning Coordinator

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

December 1, 2000

Mr. Jesse G. Petersen, President
The Lincoln Highway Association
55 Bench Mark Village
Tooele, Utah 84074

SUBJECT: REQUEST FOR CONCURRENCE ON DETERMINATION OF ADVERSE EFFECTS FOR THE ARCHEOLOGICAL AND HISTORIC SITES IDENTIFIED WITHIN THE AREA OF POTENTIAL EFFECTS AND DRAFT MEMORANDUM OF AGREEMENT FOR THE PROPOSED PRIVATE FUEL STORAGE FACILITY

Dear Mr. Petersen:

As you are aware, Private Fuel Storage, Limited Liability Company (PFS) proposes to construct and operate an independent spent fuel storage installation (ISFSI) on the Reservation of the Skull Valley Band of Goshute Indians. The U.S. Nuclear Regulatory Commission (NRC), in cooperation with the U.S. Department of Interior's Bureau of Indian Affairs (BIA) and Bureau of Land Management (BLM), and the Surface Transportation Board (STB) have offered Federally recognized Indian tribes and other organizations that may be concerned with the possible effects of the project on historic properties an opportunity to participate in the consultation process required by Section 106 of the National Historic Preservation Act.

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The cooperating Federal agencies reviewed the cultural resources inventory report and concur with the eligibility determinations. Furthermore, we requested the consulting parties' concurrence on these eligibility determinations. Also, during the week of October 23-27, 2000, the cooperating Federal agencies met with representatives of the consulting parties to discuss the eligibility recommendations included in the report and potential mitigation measures for anticipated adverse impacts to the cultural resources within the APE. Based on these meetings, a consensus determination of eligibility on historic properties has been reached. Enclosure 1 is a list of the eligible sites, sites that are not eligible, and the criteria for determining if a site qualifies for inclusion in the National Register of Historic Places.

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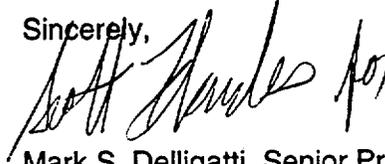
J. Petersen

-2-

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Sincerely,

A handwritten signature in black ink, appearing to read "Mark S. Delligatti". The signature is written in a cursive style and is positioned above the typed name.

Mark S. Delligatti, Senior Project Manager
Spent Fuel Licensing Section
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-22

Enclosure: 1. List of Eligible and Non-Eligible Sites
2. Draft Memorandum of Agreement

cc: PFS Service Lists
Natalie Gochnour, State Planning Coordinator

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Sincerely,

/RA/ original signed by /s/
Scott Flanders for

Mark S. Delligatti, Senior Project Manager
Spent Fuel Licensing Section
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-22

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UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

December 1, 2000

Mr. Jere Krakow, Superintendent
National Park Service
Long Distance Trails Office
324 South State Street, Suite 250
P.O. Box 45155
Salt Lake City, Utah 84145-0155

SUBJECT: REQUEST FOR CONCURRENCE ON DETERMINATION OF ADVERSE EFFECTS FOR THE ARCHEOLOGICAL AND HISTORIC SITES IDENTIFIED WITHIN THE AREA OF POTENTIAL EFFECTS AND DRAFT MEMORANDUM OF AGREEMENT FOR THE PROPOSED PRIVATE FUEL STORAGE FACILITY

Dear Mr. Krakow:

As you are aware, Private Fuel Storage, Limited Liability Company (PFS) proposes to construct and operate an independent spent fuel storage installation (ISFSI) on the Reservation of the Skull Valley Band of Goshute Indians. The U.S. Nuclear Regulatory Commission (NRC), in cooperation with the U.S. Department of Interior's Bureau of Indian Affairs (BIA) and Bureau of Land Management (BLM), and the Surface Transportation Board (STB) have offered Federally recognized Indian tribes and other organizations that may be concerned with the possible effects of the project on historic properties an opportunity to participate in the consultation process required by Section 106 of the National Historic Preservation Act.

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J. Krakow

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Sincerely



Mark S. Delligatti, Senior Project Manager
Spent Fuel Licensing Section
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-22

Enclosure: 1. List of Eligible and Non-Eligible Sites
2. Draft Memorandum of Agreement

cc: PFS Service Lists
Natalie Gochnour, State Planning Coordinator

J. Krakow

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Sincerely,

/RA/ original signed by /s/
Scott Flanders for

Mark S. Delligatti, Senior Project Manager
Spent Fuel Licensing Section
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-22

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

December 1, 2000

Mr. George Ivory, Chairman
Utah Historic Trails Consortium
7409 South Balboa Drive
Midvale, Utah 84047

SUBJECT: REQUEST FOR CONCURRENCE ON DETERMINATION OF ADVERSE EFFECTS FOR THE ARCHEOLOGICAL AND HISTORIC SITES IDENTIFIED WITHIN THE AREA OF POTENTIAL EFFECTS AND DRAFT MEMORANDUM OF AGREEMENT FOR THE PROPOSED PRIVATE FUEL STORAGE FACILITY

Dear Mr. Ivory:

As you are aware, Private Fuel Storage, Limited Liability Company (PFS) proposes to construct and operate an independent spent fuel storage installation (ISFSI) on the Reservation of the Skull Valley Band of Goshute Indians. The U.S. Nuclear Regulatory Commission (NRC), in cooperation with the U.S. Department of Interior's Bureau of Indian Affairs (BIA) and Bureau of Land Management (BLM), and the Surface Transportation Board (STB) have offered Federally recognized Indian tribes and other organizations that may be concerned with the possible effects of the project on historic properties an opportunity to participate in the consultation process required by Section 106 of the National Historic Preservation Act.

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G. Ivory

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Sincerely,



Mark S. Delligatti, Senior Project Manager
Spent Fuel Licensing Section
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-22

Enclosure: 1. List of Eligible and Non-Eligible Sites
2. Draft Memorandum of Agreement

cc: PFS Service Lists
Natalie Gochnour, State Planning Coordinator

G. Ivory

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Sincerely,

/RA/ original signed by /s/
Scott Flanders for

Mark S. Delligatti, Senior Project Manager
Spent Fuel Licensing Section
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-22

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Natalie Gochnour, State Planning Coordinator

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UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

December 1, 2000

Mr. Jay Banta, President
The Lincoln Highway Association
Utah Chapter
P.O. Box 568
Dugway, Utah 84022

SUBJECT: REQUEST FOR CONCURRENCE ON DETERMINATION OF ADVERSE EFFECTS FOR THE ARCHEOLOGICAL AND HISTORIC SITES IDENTIFIED WITHIN THE AREA OF POTENTIAL EFFECTS AND DRAFT MEMORANDUM OF AGREEMENT FOR THE PROPOSED PRIVATE FUEL STORAGE FACILITY

Dear Mr. Banta:

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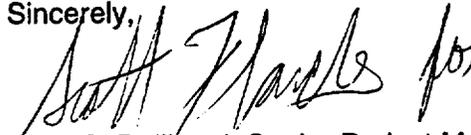
J. Banta

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Sincerely,

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Mark S. Delligatti, Senior Project Manager
Spent Fuel Licensing Section
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-22

Enclosure: 1. List of Eligible and Non-Eligible Sites
2. Draft Memorandum of Agreement

cc: PFS Service Lists
Natalie Gochnour, State Planning Coordinator

J. Banta

-2-

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Sincerely,

/RA/ original signed by /s/
Scott Flanders for

Mark S. Delligatti, Senior Project Manager
Spent Fuel Licensing Section
Licensing and Inspection Directorate
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UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

December 1, 2000

Mr. Steve Berlin, President
The Oregon California Trail Association
Utah Crossroads Chapter
5211 Greenpine Drive
Salt Lake City, Utah 84123

SUBJECT: REQUEST FOR CONCURRENCE ON DETERMINATION OF ADVERSE EFFECTS FOR THE ARCHEOLOGICAL AND HISTORIC SITES IDENTIFIED WITHIN THE AREA OF POTENTIAL EFFECTS AND DRAFT MEMORANDUM OF AGREEMENT FOR THE PROPOSED PRIVATE FUEL STORAGE FACILITY

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Mark S. Delligatti, Senior Project Manager
Spent Fuel Licensing Section
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-22

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/RA/ original signed by /s/
Scott Flanders for

Mark S. Delligatti, Senior Project Manager
Spent Fuel Licensing Section
Licensing and Inspection Directorate
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UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

December 2, 2000

Ms. Margene Bullcreek
Ohngo Gaudadeh Devia
P.O. Box 155
Tooele, UT 84074

SUBJECT: REQUEST FOR CONCURRENCE ON DETERMINATION OF ADVERSE EFFECTS FOR THE ARCHEOLOGICAL AND HISTORIC SITES IDENTIFIED WITHIN THE AREA OF POTENTIAL EFFECTS AND DRAFT MEMORANDUM OF AGREEMENT FOR THE PROPOSED PRIVATE FUEL STORAGE FACILITY

Dear Ms. Bullcreek:

As you are aware, Private Fuel Storage, Limited Liability Company (PFS) proposes to construct and operate an independent spent fuel storage installation (ISFSI) on the Reservation of the Skull Valley Band of Goshute Indians. The U.S. Nuclear Regulatory Commission (NRC), in cooperation with the U.S. Department of Interior's Bureau of Indian Affairs (BIA) and Bureau of Land Management (BLM), and the Surface Transportation Board (STB) have offered Federally recognized Indian tribes and other organizations that may be concerned with the possible effects of the project on historic properties an opportunity to participate in the consultation process required by Section 106 of the National Historic Preservation Act.

In May and June of 1999 and in June 2000, a PFS contractor, P-III Associates, performed a Class III cultural resources inventory in Skull Valley, Utah. All portions of the Area of Potential Effect (APE) were included in the study area. PFS provided consulting parties with a copy of the report documenting the cultural resources located within the APE. For all sites within the APE, the report includes a recommendation with regard to each site's eligibility for inclusion in the National Register of Historic Places.

The cooperating Federal agencies reviewed the cultural resources inventory report and concur with the eligibility determinations. Furthermore, we requested the consulting parties' concurrence on these eligibility determinations. Also, during the week of October 23-27, 2000, the cooperating Federal agencies met with representatives of the consulting parties to discuss the eligibility recommendations included in the report and potential mitigation measures for anticipated adverse impacts to the cultural resources within the APE. Based on these meetings, a consensus determination of eligibility on historic properties has been reached. Enclosure 1 is a list of the eligible sites, sites that are not eligible, and the criteria for determining if a site qualifies for inclusion in the National Register of Historic Places.

Pursuant to 36 CFR 800.5, an adverse effect is found when a project may alter, directly or indirectly, any of the characteristics of a historic property that qualifies the property for inclusion in the National Register of Historic Places in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling or association. Based on these criteria, the cooperating Federal agencies have determined that the proposed project will have adverse effects on properties that are eligible for inclusion in the National Register of Historic Places.

As a consequence of the finding of adverse effect, a draft Memorandum of Agreement (Agreement) has been developed that outlines agreed-upon measures that PFS will take to avoid, minimize, or mitigate these adverse effects (Enclosure 2). The cooperating Federal agencies request your concurrence on the determination of adverse effects and comments regarding the draft Agreement within 30 days.

If you have any questions, please contact Scott Flanders (NRC) at (301) 415-1172, Laird Naylor (BLM) at (801) 977-4357, Garry Cantley (BIA) at (602) 379-6750, or Phillis Johnson-Ball (STB) at (202) 565-1530.

Sincerely,



Mark S. Delligatti, Senior Project Manager
Spent Fuel Licensing Section
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-22

Enclosure: 1. List of Eligible and Non-Eligible Sites
2. Draft Memorandum of Agreement

cc: PFS Service Lists
Natalie Gochnour, State Planning Coordinator

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Sincerely,
/RA/ original signed by /s/
Scott Flanders for

Mark S. Delligatti, Senior Project Manager
Spent Fuel Licensing Section
Licensing and Inspection Directorate
Spent Fuel Project Office
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