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SHUM,E.Y. Office of Nuclear Material Safety & Safeguards

SUBJECT: Submits comments for US NRC EIS scoping process on behalf of
Ohngo Gaudadeh Devia, Lisa Bullcreek & Margene Bullcreek.

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June 19, 1998

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Dr. Edward Y. Shum
 Environmental Project Manager
 Spent Fuel Licensing Section
 Spent Fuel Project Office
 U.S. Nuclear Regulatory Commission
 Washington, D.C. 20555

Re: In the Matter of Private Fuel Storage, L.L.C.,
 NRC Dkt. No. 72-22 (NEPA Scoping Comments)

Dear Dr. Shum:

On behalf of Ohngo Gaudadeh Devia (OGD), Lisa Bullcreek, and Margene Bullcreek we are pleased to present comments for the U.S. Nuclear Regulatory Commission's environmental impact statement (EIS) scoping process.


Should you have any questions or require additional information please do not hesitate to call on us.

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*Serving the
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 and Desert Southwest*

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**NEPA SCOPING COMMENTS on behalf of
OHNGO GAUDADEH DEVIA (OGD), LISA BULLCREEK
and MARGENE BULLCREEK**

**IN THE MATTER OF:
PRIVATE FUEL STORAGE, L.L.C.
NRC DOCKET No. 72-22**

INTRODUCTION

These comments regarding the NRC's environmental impact statement (EIS) scoping process are filed on behalf of Ohngo Gaudadeh Devia (OGD), Margene Bullcreek, and Lisa Bullcreek (collectively referred to as "Commentors"). OGD is primarily comprised of members of the Skull Valley Band of Goshute. OGD is dedicated to preserving the culture, traditions, and physical surroundings of the Skull Valley Band of Goshute. Margene Bullcreek and Lisa Bullcreek live on the Skull Valley Reservation. They are members of OGD and join in the organizations comments today. However, Margene and Lisa Bullcreek are also providing individual comments that have been recorded at the June 2, 1998 public meeting and are reflected herein.

PRELIMINARY STATEMENT

At the outset, the Commentors wish to raise several objections that are relevant to the EIS process. First, the Commentors object to the failure of the Department of Interior and/or Bureau of Indian Affairs (BIA) to prepare an EIS. With all due respect, the NRC and its contractors have comparatively little insight into the social, cultural, religious, and economic affairs of the Skull Valley Band of Goshute. At a minimum,

the BIA should have conducted an EIS regarding the impacts of leasing a portion of the Skull Valley Reservation to Private Fuel Storage, L.L.C. (PFS).

Second, the Oak Ridge National Laboratory (ORNL) was chosen by the NRC to prepare the EIS. With all due respect, both the NRC and ORNL have well established institutional prejudices in favor of nuclear power. The Commentors respectfully note that it would have been far better if the NRC chose a contractor with no involvement or interest in nuclear power issues.

Finally, the Commentors are deeply concerned that the EIS process is being or will be prejudiced by the ongoing NRC licensing process. Considering the spirit of the National Environmental Policy Act (NEPA) and the EIS process, the Commentors believe that such basic questions as whether the proposed facility is needed or whether there are alternatives to the proposed facility should have been addressed through the NEPA process long before a licensing proceeding was initiated. See, 40 C.F.R. § 1502.2(g).

SOCIAL, CULTURAL, AND RELIGIOUS IMPACTS

1. Social and Cultural Impacts: The EIS must specifically investigate and analyze the impacts the proposed facility will have on social interactions and cultural activities of persons living on or near the Skull Valley Reservation. The Commentors are traditionalists, which means they engage in activities that they believe preserve important aspects of their way of life.

For example, the Commentors believe in a living Mother Earth. It is a important part of their heritage to protect the water, air, soil, plant life, and animal life

from harm. In their homes and on other areas of the Reservation the Commentors hold family gatherings, celebrations, memorial services and community meetings.

The Skull Valley Reservation is a small place. The construction and operation of the PFS facility on approximately 100 acres will create an intimidating presence that will inhibit Commentors initiation of and participation in many social and cultural events on or near the Skull Valley Reservation.

2. Religious Impacts: The EIS must specifically investigate and analyze the impacts the proposed facility will have on spiritual life and religious practices of persons living on or near the Skull Valley Reservation. The Commentors conduct and are involved in spiritual ceremonies involving young people, elders, and persons living outside of the Reservation. The Commentors believe that there is a sense of tranquility on their land and a spirituality in the air, mountains, and whole environment on the Reservation. This tranquility and spirituality will be destroyed by the construction and operation of the PFS facility.

CUMULATIVE IMPACTS TO HUMAN HEALTH AND THE ENVIRONMENT

3. Cumulative Impacts and Risks: The EIS should analyze the cumulative environmental impacts (including disparate impacts on and the unique burdens faced by minority and low income individuals in communities surrounding the proposed facility) of the transportation of spent fuel and construction and operation of the proposed facility considering circumstances involving the release of radiation caused by: (1) normal operations; (2) malfunctions; (3) human error(s); (4) design flaws; (5) minor accidents; and (6) major accidents. The scenarios describing the release of radiation should also be

considered in conjunction with current releases of hazardous wastes from the following nearby facilities: Tooele Chemical Demilitarization Facility; Tooele Army Depot; Dugway Proving Ground; Wendover Air Force Bombing Range; Hill Air Force Bombing Range, APTUS Hazardous Waste Incinerator; Laidlaw Hazardous Waste Incinerator and Landfill; Envirocare of Utah Low Level Waste Disposal Facility; U.S. Pollution Control, Inc. (USPCI); Magnesium Corporation of America (MAGCORP); Cargill Salt; Climax Chemical Co.; North American Salt Co.; PPM, Inc.; and Tekoi Test Facility operated by Alliant Techsystems (Skull Valley). The emissions of other industrial facilities involved in smelting, metal production, and refining should also be included in a comprehensive risk analysis. Current meteorological conditions, incidence and types of disease, incidence and types of illness, average life span, and causes of death in the impacted areas must be considered when adding the risks of the transportation of spent fuel, construction and operation of the proposed facility to the already high pollution and illness burdens faced by the impacted communities.

4. Cumulative Impacts, Connected Actions and Segmentation — Facility Construction and Operation and Transportation Impacts. The EIS should analyze the cumulative environmental impacts (including disparate impacts on and the unique burdens faced by minority and low income individuals in communities surrounding the proposed facility) of the construction and operation of the facility together with potential impacts resulting from transportation of the spent fuel and/or the design of shipping casks for transport of this fuel. In addition, the proposed construction and operation of the facility, the proposed transportation of the fuel to the site and the design of shipping casks are connected actions, the impacts of which should be considered together in a single

EIS. These proposed actions are interrelated and should not be segmented. This analysis should include consideration of the possibility that the facility will operate, accept and store fuel for 40 or more years and should consider that the storage casks utilized by PFS will necessarily be untested for long term durability and reliability.

In addition, the EIS should consider the cumulative impacts (including cumulative adverse impacts to minority and impoverished individuals living in nearby communities) posed by the increased probability of accidents in the transportation, handling and storage of the fuel due to the location of the proposed facility, intermodal transfer facility and associated transportation corridors near various military bombing ranges and testing sites and near transportation routes for the explosives used at these sites.

5. Potential for Lowering Water Table and Contaminating Water Supply. The EIS should consider the potential environmental impacts (including disparate impacts on and the unique burdens faced by minority and low income individuals in communities surrounding the proposed facility) to the water table and water supply caused by the construction and operation of the facility. This analysis should consider the impacts of facility water use and the potential for contamination of the water supply and the possible impacts on wildlife, wildlife habitat and nearby communities. This analysis should also consider the real possibility that the facility will handle, accept and store spent fuel for more than 40 years and that the operation of the facility will constitute a long-term threat to the local water supply, both from overuse and contamination.

6. Radiation Control: The EIS should consider the potential environmental impacts (including disparate impacts on and the unique burdens faced by minority and low

income individuals in communities surrounding the proposed facility) that may be caused by the failure of PFS to establish and maintain a radiation control program that adequately monitors and prevents the release of radiation during the following stages of project activities: (1) preparation for shipment of spent fuel and related wastes; (2) shipment of spent fuel; (3) unpacking and transfer of spent fuel from shipping to storage casks; (4) re-packing of spent fuel due to container damage or wear, and (5) storage of spent fuel for 20, 40, and greater than 40 years. This analysis should also include evaluations of the impacts of radiation releases during normal operations and minor accidents on persons working at the facility, persons working at facilities or on equipment involved in the transportation of the spent fuel, persons at the boundary of the controlled area, and persons outside of the controlled area.

ACCIDENTS, SABOTAGE, NATURAL EVENTS, AND EMERGENCY PLANNING

7. Seismic Conditions: The EIS should consider the potential environmental impacts (including disparate impacts on and the unique burdens faced by minority and low income individuals in communities surrounding the proposed facility) that may be caused by tremors, earthquakes, and other seismic events on the transportation, handling and storage of the spent fuel at the location of the proposed facility, intermodal transfer facility, and associated transportation corridors. This analysis should include, but should not be limited to, evaluation of cask-pad stability during various types of seismic events.

8. Flooding: The EIS should consider the potential environmental impacts (including disparate impacts on and the unique burdens faced by minority and low income individuals in communities surrounding the proposed facility) that may be caused

by normal flooding and a maximum flood at the location of the proposed facility, intermodal transfer facility, and associated transportation corridors.

9. Full Range of Accidents and Potential Impacts: The EIS should consider the potential environmental impacts (including disparate impacts on and the unique burdens faced by minority and low income individuals in communities surrounding the proposed facility) of the full range of potential accidents which: a) could occur as a result of the construction and operation of the proposed facility such as those accidents caused by human error, sabotage, and fire; and b) as a result of any handling, transport or movement of casks (including human error, sabotage, fire, traffic incidents, cask drop and bend, lid drop damage and/or due to improper welds and damage to casks that result in a loss of the confinement barrier). These analyzes should consider: a) the potential impacts of similar handling accidents that could occur at the Intermodal Transfer Facility; b) the likely scenario that the facility will operate, accept and store waste for more than 40 years and is likely, during this extended time, to receive defective fuel canisters, experience handling accidents and be required to open or reload damaged canisters and casks; and, c) that the storage casks utilized by PFS will necessarily be untested for long term durability and reliability.

Moreover, the EIS should consider the potential impacts of multiple accidents involving the proposed facility and other significant facilities in the area. For example, the EIS should specifically address circumstances where an accident occurs at the proposed facility and an accident occurs at the Dugway Proving Ground, Tooele Chemical Demilitarization Facility (TOCDF), and/or the Tooele Army Depot involving the release of deadly chemical warfare agents. The EIS should specifically evaluate the

impacts of the release of radioactive materials from the proposed facility in combination with a release of chemical warfare agents GB (Sarin), VX, Mustard (H, HD, or HT), Lewisite, and/or other chemical warfare agents. This evaluation should include an examination of the ability of emergency responders to address two serious incidents that occur within a short time of each other.

Finally, the EIS must also consider the potential impacts that could occur if there is a release of chemical warfare agent(s) (e.g., VX) that requires the proposed facility to be abandoned for days, weeks, or months.

10. Serious Accident or Incident Involving the Release of Radiation: The EIS should analyze the full range of potential environmental impacts (including disparate impacts on and the unique burdens faced by minority and low income individuals in communities surrounding the proposed facility) that may result from an accident or incident involving the release of radiation that is so severe that it (1) seriously injures or causes the deaths of all residents of the Skull Valley reservation, and (2) permanently contaminates the lands occupied and utilized by the Skull Valley Goshutes.

11. Adequacy of Emergency Plan and Impacts On Those Living Near the Facility: The EIS should analyze the full range of potential environmental impacts (including disparate impacts on and the unique burdens faced by minority and low income individuals in communities surrounding the proposed facility) that may result from an emergency at the facility in light of the current emergency plan and in the context of the lack of an adequate emergency plan associated with the facility designed to protect those living within a five mile radius of the facility and the environment upon which they depend. The EIS should consider impacts such as those to the cultural,

economic and psychological well being of these individuals and the likely scenario that these individuals will experience disempowerment and alienation as a result of being excluded from and not being consulted about safety and emergency plans related to the facility.

RECREATION AND PUBLIC LANDS

12. Impacts to Recreation: The EIS should consider the potential impacts of the construction, operation and decommissioning of the proposed project (including the intermodal transfer facility and associated transportation and workforce activities) on recreation in nearby public and private lands, including the Deseret Peak Wilderness Area. This analysis should include consideration of visual impacts, impacts caused by accidents or the degradation of casks, and impacts on air and water quality. The analysis should consider a) impacts on opportunities for solitude and primitive, unconfined recreation and to experience natural conditions where the imprint of human work is substantially unnoticeable; and, b) the real possibility that the facility will handle, accept and store spent fuel for more than 40 years and therefore that the operation of the facility will constitute a long-term threat to these recreation values.

13. Impacts to Specially Designated Public Lands: The EIS should consider the potential impacts of the construction, operation and decommissioning of the proposed project (including the intermodal transfer facility and associated transportation and workforce activities) on specially designated public lands including wilderness areas, proposed wilderness areas (contained in the Citizens Wilderness Proposed, endorsed by

the Utah Wilderness Coalition)¹, and wildlife and bird refuges. This analysis should include: a) consideration of the potential impacts caused by accidents or the degradation of casks, transportation and handling of spent fuel; b) noise; c) workforce activities; d) impacts on air and water quality; impacts on opportunities for solitude and primitive, unconfined recreation and to experience natural conditions where the imprint of human work is substantially unnoticed. This analysis should consider the real possibility that the facility will handle, accept and store spent fuel for more than 40 years and therefore that the operation of the facility will constitute a long-term threat to these important lands.

WILDLIFE AND PLANTS

14. Impacts to Wildlife and Plants. The EIS should consider the potential environmental impacts (including the cumulative impacts of the proposed project taken together with the current environmental impacts of the many military sites and industrial sites within the vicinity of the proposed project) of the construction, operation and decommissioning of the proposed project on wildlife, including threatened, endangered and petitioned species of animals and plants, on critical or potential habitat for these species, on sensitive species (as determined by the U.S. Forest Service), and on other birds, particularly those protected by the Migratory Bird Treaty, giving special attention to ecosystem health. The EIS should consider special relationships such as corridors and edge environment, the potential for habitat fragmentation and the fragile nature of the

¹ H.R. 1500, the Citizens Proposal, includes proposed wilderness areas on Bureau of Land Management Lands immediately north of Deseret Peak Wilderness (the North Stansbury area) and south of Deseret Peak Wilderness (Big Hollow). H.R. 1500 also includes a large proposed tract in the central Cedar Mountains, west of the proposed facility. The most recent Utah Wilderness Coalition review includes additional proposed areas immediately north and south of this Cedar Mountain tract.

desert and high altitude environments. This analysis should include consideration of impacts caused by traffic (including road kill), accidents at the facility, and impacts on water and air quality. The EIS analysis should also consider the disparate impacts on and the unique burdens faced by minority and low income individuals, including the traditional life styles of members of the Skull Valley Goshute Tribe which may result from impacts on wildlife, plants and their habitat. It is important that the analyzes in the EIS include the impacts on plants, wildlife, and special or sacred areas that are part of a subsistence diet, cultural events, and religious activities. These analyzes should consider the real possibility that the facility will handle, accept and store spent fuel for more than 40 years and therefore that the operation of the facility will constitute a long-term threat to these resource, religious, and cultural values.

15. Impacts to the Great Salt Lake: The EIS should consider the potential impacts of the construction, operation and decommissioning of the proposed project (including the intermodal transfer facility and associated transportation and workforce activities) on the Great Salt Lake, especially on the shore and migratory bird populations and wetlands habitat. This analysis should include consideration of the potential impacts caused by accidents or the degradation of casks, transportation and handling of spent fuel, noise, and workforce activities and impacts on air quality, water quality and ecosystem integrity and should include the cumulative impacts of the proposed project taken together with the current environmental impacts of the many military sites and industrial sites within the vicinity of the proposed project. This analysis should also consider the real possibility that the facility will handle, accept and store spent fuel for more than 40 years

and therefore that the operation of the facility will constitute a long-term threat to these birds and wetlands habitat.

16. Impacts on Other Ecologically Significant Areas: The EIS should consider the potential environmental impacts (including the cumulative impacts of the proposed project taken together with the current environmental impacts of the many military sites and industrial sites within the vicinity of the proposed project) of the transportation of spent fuel and construction and operation of the proposed facility on Horseshoe Springs, Timpie Springs Waterfowl Management Area, and Salt Mountain Springs.

CONSTRUCTION AND MONITORING PROBLEMS

17. Impacts of Inability to Construct, Operate and Decommission: The EIS should consider the potential environmental impacts (including potential disparate impacts and impacts unique to minority and low income individuals) of the reasonably foreseeable event that PFS will fail (for financial or other reasons) to properly complete construction, operation or decommissioning of the facility.

18. Impacts of Failure to Monitor Radiation Releases Outside the Facility: The EIS should consider the potential environmental impacts (including disparate impacts on and the unique burdens faced by minority and low income individuals in communities surrounding the proposed facility) from any failure by PFS to adequately monitor for radiation releases within and outside the facility. This analysis should include any potential impacts on the health of individuals and the natural environment near the facility caused by accidental, but unmonitored releases of radiation.

19. Impacts of Construction and Routine Operations of Proposed Facility: The EIS should consider the potential environmental impacts (including disparate impacts on and the unique burdens faced by minority and low income individuals in communities surrounding the proposed facility) caused by the construction and routine operation of the proposed facility, including associated transportation activities. This analysis should consider visual impacts and impacts from noise, strangers, worker and visitor traffic, and the transportation of spent fuel to the facility. These activities will impact wildlife, habitat, water and air quality and the cultural integrity of those living on tribal lands and will put at risk tribal and ancestral lands and historical and archeological sites. This analysis should consider the real possibility that the facility will handle, accept and store spent fuel for more than 40 years and therefore that the operation of the facility will constitute a long-term threat to these cultural and resource values.

20. Inadequate Quality Assurance: The EIS should consider the potential environmental impacts (including disparate impacts on and the unique burdens faced by minority and low income individuals in communities surrounding the proposed facility) caused by the substandard quality assurance (QA) program being proposed by PFS. See, 10 C.F.R. Part 72, Subpart G. The lack of a rigorous QA program will increase the risk of errors and accidents that will likely lead to the emission of radioactive materials into the environment.

TRAINING ISSUES

21. On-site Training: The EIS should consider the potential environmental impacts (including disparate impacts on and the unique burdens faced by minority and low income individuals in communities surrounding the proposed facility) which may result

from the inexperience of operators of the proposed facility, particularly in light of the inability of PFS to attract qualified personnel and to keep qualified personnel at the remote facility. In addition, even if PFS should attract qualified personnel, the EIS should consider that the current training and certification plan for PFS personnel fails to satisfy NRC requirements. See, 10 C.F.R. Part 72, Subpart I. Inadequate training will increase the risk of errors or accidents.

22. Remoteness of Facility. The EIS should consider the potential environmental impacts (including disparate impacts on and the unique burdens faced by minority and low income individuals in communities surrounding the proposed facility) which may result from the remoteness and vulnerability of the facility and potentially grave environmental, health and safety implications that follow from the great distances that must be traveled by law enforcement and emergency personnel to reach the facility.

INADEQUATELY DESIGNED OR DAMAGED CASKS

23. Inadequate Design. The EIS should analyze the potential environmental impacts (including potential disparate impacts and impacts unique to minority and low income individuals) which may be caused by the overheating of the storage casks and concrete cylinders.

24. Damaged, Leaking and Contaminated Casks. The EIS should analyze the potential environmental impacts (including potential disparate impacts and impacts unique to minority and low income individuals) which may be caused by the likely scenario that the casks holding the spent fuel will be damaged or will leak or become contaminated during transportation or during the 20 to 40 year storage period at the facility. The EIS should also consider the impacts in the likely event that facility may

operate and accept and store spent fuel for more than 40 years. This analysis should consider the impacts that may result if damaged casks or canisters must be returned to the generating facility or otherwise disposed of during operation or decommissioning of the site, particularly if PFS is unable or unwilling (for financial or other reasons) to facilitate this return or disposal.

NO ACTION AND ALTERNATIVES

25. Environmental Benefits of No Action: The EIS should evaluate the potential positive environmental impacts that may occur if the proposed facility is not approved for construction and operation. PFS has stated in the company's Environmental Report (ER) that the "[i]nability of an operating reactor to provide sufficient spent fuel storage capacity will cause the shutdown of that reactor." ER at 1.2-1. PFS further stated that "the availability of the [proposed facility] may be the only alternative to the premature shutdown of a nuclear power reactor with its attendant costs and loss of generating capacity." ER at 1.2-2. The EIS should consider the positive impacts of the gradual shutdown of nuclear reactors with spent fuel storage capacity problems that are replaced by energy conservation and efficiency measures and renewable forms of energy. The positive impacts may include a significant reduction in high level nuclear waste (i.e., spent fuel) production and other forms of pollution associated with nuclear reactors. In addition, a gradual move from nuclear power to renewable energy sources, energy conservation and efficiency measures may lead to reduced costs for power consumers.

26. **Alternatives:** The EIS should consider alternative sites for the storage of the spent nuclear fuel planned for the PFS facility. In particular, the EIS should consider storage in place or near the nuclear reactors that are alleged to have waste storage problems. Commentors believe that the current plan to site the PFS facility on the Skull Valley Reservation is discriminatory and violates principles of Environmental Justice and Civil Rights Laws.

CONCLUSION

The Commentors urge the NRC and it's contractors to carefully consider all of the issues raised in these comments. The siting and licensing of the proposed PFS facility raises many complex and important issues that deserve thoughtful investigation and analysis.

Respectfully submitted,



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