

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
)
PRIVATE FUEL STORAGE, L.L.C.) Docket No. 72-22-ISFSI
)
(Independent Spent)
Fuel Storage Installation))

JOINT AFFIDAVIT OF DAVID L. ALLISON, SAM A. CARNES, AND
MICHAEL J. SCOTT CONCERNING OGD CONTENTION O, BASIS 6

David L. Allison ("DLA"), Sam A. Carnes ("SAC"), and Michael J. Scott ("MJS"), being duly sworn, do hereby state as follows¹:

1(a). (DLA) My name is David L. Allison. I am employed as a Superintendent for the Bureau of Indian Affairs ("BIA") for the Uintah and Ouray Reservation and Skull Valley Band of Goshutes, at Fort Duchesne, Utah. A statement of my professional qualifications is attached hereto.

1(b). (SAC) My name is Sam A. Carnes. I am employed as a member of the research staff in the Center for Energy and Environmental Analysis at Oak Ridge National Laboratory ("ORNL") in Oak Ridge, Tennessee. I am providing this affidavit under a technical assistance contract between the staff of the Nuclear Regulatory Commission ("Staff") and ORNL. A statement of my professional qualifications is provided as "Attachment 1" to the "Affidavit of Sam A. Carnes, Paul R. Nickens and Michael J. Scott Concerning OGD Contention O, Basis 1," filed simultaneously herewith.

¹ Each individual paragraph as to which an affiant is attesting herein is identified by parenthetically listing the affiant's initials after the paragraph number. For paragraphs attributed to all of the affiants, no designation of the affiants' initials appears.

1(c). (MJS) My name is Michael J. Scott. I am employed as Staff Scientist, in the Energy Science and Technology Division, at Pacific Northwest National Laboratory ("PNNL") in Richland, Washington. I am providing this affidavit under a technical assistance contract between the NRC Staff and PNNL. A statement of my professional qualifications is provided as "Attachment 3" to the "Affidavit of Sam A. Carnes, Paul R. Nickens and Michael J. Scott Concerning OGD Contention O, Basis 1," filed simultaneously herewith.

2. This Affidavit is prepared in support of the "NRC Staff's Response To Applicant's Motion For Summary Disposition of OGD Contention O - Environmental Justice" ("Staff Response") filed herewith, concerning the "Applicant's Motion For Summary Disposition of OGD Contention O - Environmental Justice" ("Motion") and the "Statement of Material Facts on Which No Genuine Dispute Exists" ("Statement of Material Facts") attached thereto, filed by Private Fuel Storage, L.L.C. ("PFS" or "Applicant"), on May 25, 2001. The statements of material fact set forth by the Applicant with respect to Basis 6 of Contention OGD O are addressed herein as follows: Material Fact Statement Nos. 32 and 34 (David L. Allison); Material Fact Statement Nos. 33, 35, 36, and 37 (Sam A. Carnes); Material Fact Statement Nos. 31-34 and 36-40 (Michael J. Scott).

3. (SAC, MJS) As part of our official responsibilities, we assisted the NRC staff in its evaluation of the potential environmental impacts related to the Applicant's proposed construction and operation of an independent spent fuel storage installation ("ISFSI") on the Reservation of the Skull Valley Band of Goshutes located in Skull Valley, Utah. Further, as part of our official responsibilities, we assisted in the preparation of the NRC Staff's "Draft Environmental Impact Statement for the Construction and Operation of an Independent Spent Fuel Storage Facility on the Reservation of the Skull Valley Band of Goshute Indians and the Related Transportation Facility in Tooele County, Utah," NUREG-1714, issued in June 2000 ("DEIS"), and are currently assisting in the preparation of the Staff's Final EIS ("FEIS") related to this proposed facility.

David L. Allison

4. (DLA) The BIA is a cooperating agency in preparation of the DEIS and the FEIS. As part of my official responsibilities, I assisted in the preparation of the Staff's DEIS, and am currently assisting in the preparation of the Staff's FEIS related to this proposed facility.

5. (DLA) As part of my official responsibilities, I reviewed the Applicant's Motion and the Statement of Material Facts attached thereto, in which PFS seeks summary disposition of Contention OGD O. With respect to the Applicant's Statement of Material Facts, I examined those statements which relate to work I have done or am doing with respect to the DEIS and the FEIS. As relevant to Basis 6 of the contention, these portions of the Applicant's Statement of Material Facts are Statement Nos. 32 and 34.

6. (DLA) The following describes how housing is transferred and owned on the Reservation of the Skull Valley Band of Goshute Indians. All real property (*i.e.*, land, but excluding any personal housing structure) on the Reservation is owned by the United States in trust for the Band as a whole (with certain exceptions not relevant to this proceeding), and cannot be owned by any individual Band member or any person outside the Band. Any housing built or placed on the Reservation may be owned only by Band members. A Band member seeking to build or place housing on the Reservation must obtain approval from the Skull Valley Band General Council. Any transfer of ownership of a housing structure or a building on the Reservation must also be approved by the Council.

7. (DLA) Currently, approximately twenty-nine (29) persons live on the Reservation, of whom twenty-five (25) are members of the Tribe, and four (4) are not members of the Tribe. Currently, there are approximately ten (10) dwellings on the Reservation.

8. (DLA) I have attended a number of meetings with members of the Band where the PFS Facility ("PFSF") was discussed. While some individuals stated at these meetings that

persons owning homes on the Reservation might move away or sell their homes because of the proposed location of the PFSF, I did not hear anyone state that some person would, in fact, move or sell his or her home. Further, a number of members of the Band who currently live off the Reservation stated during these meetings that if PFSF were built and PFS was hiring help, they would be interested in moving back to the Reservation. Therefore, I conclude that siting the PFSF on the Reservation could have a net effect of increasing the demand for housing on the Reservation.

9. (DLA) On the basis of my review of the Applicant's Motion, including a report entitled "The Impact on the Local Economy and Property Values of the Proposed Private Fuel Storage Facility in Skull Valley, Utah" dated May 2001 (Exhibit 2 to Attachment A to Applicant's Motion, "Declaration of Roger Bezdek"), and the DEIS, I am satisfied that Material Fact Nos. 32 and 34 in the Statement of Material Facts attached to the PFS Motion are correct.

Sam A. Carnes

10. (SAC) As part of my official responsibilities, I reviewed the Applicant's Motion and the Statement of Material Facts attached thereto, in which PFS seeks summary disposition of Contention OGD O. My review included the Declaration of Roger Bezdek, which was attached to the Applicant's Motion. With respect to the Applicant's Statement of Material Facts, I examined those statements which relate to work I have done or am doing with respect to the socioeconomic impact sections of the DEIS and the FEIS. As relevant to Basis 6 of the contention, these portions of the Statement of Material Facts are in Statements numbers 33, 35, 36, and 37.

11. (SAC) On the basis of my review of the Applicant's Applicant's Environmental Report ("ER"), the Applicant's Motion, the Declaration of Dr. Bezdek, and the DEIS, I am satisfied that Material Facts Nos. 33, 35, 36, and 37 in the Statement of Material Facts attached to the

Applicant's Motion are correct, except that I believe that Material Facts No. 35-37 should be clarified or corrected, as set forth below.²

12. (SAC) Material Fact No. 35 should be modified to read:

35. By agreement with Tooele County, PFS will make significant payments to Tooele County in lieu of property taxes. The payments are not tax payments. DEIS at 4-36; Bezdek Dec., Exh. 2 at 9, 10.

13. (SAC) Material Fact No. 36 should be modified to read:

36. PFS payments to Tooele County and taxes on PFS purchases might ~~will~~ result in better schools, which would ~~will~~ benefit Band children and hence increase market values of Band property values outside the Reservation. Bezdek Dec., ¶ 8.

14. (SAC) Material Fact No. 37 should be modified to read:

37. PFS payments to Tooele County and taxes on PFS purchases might ~~will~~ provide for an increase in county services, which would ~~will~~ benefit the Band and hence increase market values of Band property values outside the Reservation. Bezdek Dec., ¶ 9.

15. (SAC) Notwithstanding the modifications and corrections set forth in paragraphs 12-14 above, I agree with the Applicant's view that the proposed PFSF would not have an adverse effect on market values of property outside the Reservation.

16. (SAC) In addition, notwithstanding the modifications and corrections set forth in paragraphs 12-14 above, I agree with the Applicant's view that the concerns raised by OGD in Basis 6 of Contention OGD O have been addressed satisfactorily, and no genuine dispute of material fact exists with respect to these matters.

Michael J. Scott

17. (MJS) As part of my official responsibilities, I reviewed the Applicant's Motion and the Statement of Material Facts attached thereto, in which PFS seeks summary disposition of Contention OGD O. With respect to the Applicant's Statement of Material Facts, I examined those

² In the following discussion, proposed changes to the Applicant's Statement of Material Facts are indicated by underlining (insertions) or underlining and strikeout (deletions).

statements which relate to work I have done or am doing with respect to the environmental justice sections of the DEIS and the FEIS. As relevant to Basis 6 of the contention, these portions of the Applicant's Statement of Material Facts are in Statement Nos. 31-34 and 36-40.

18. (MJS) On the basis of my review of the Applicant's ER, the Applicant's Motion, the Declaration of Dr. Bezdek, and the DEIS, I am satisfied that Material Facts No. 31-34 and 36-40 in the Statement of Material Facts attached to the Applicant's Motion are correct, except that I believe that Material Facts Nos. 36-37 should be revised as set forth in paragraphs 13-14 above, and Material Facts Nos. 34, 38 and 40 should be clarified or corrected, as set forth below.

19. (MJS) Material Fact No. 34 should be modified to read:

34. Based on Band members potentially returning to the Reservation due to the positive economic impacts of the PFS project, the impact of the PFS project on the market value of existing Band property values on the Reservation is likely to be small, but is more likely to be positive or neutral rather than negative. DEIS at 6-30 to 6-31.

20. (MJS) Material Fact No. 38 should be modified to read:

38. As Band members' economic situations improve as a result of PFS lease payments or jobs created by the PFSF, they will tend to buy better housing, which may or may not will raise the market value of all housing structures property on the Reservation, but is more likely to be positive or neutral rather than negative. Bezdek Dec. at ¶ 11.

21. (MJS) Material Fact No. 40 should be modified to read:

40. The PFS project will is more likely to have a neutral or positive impact, rather than a negative impact, on the market value of Band property values on the Reservation, independent of the lease payments PFS will make to the Band directly, to the extent that Band members may find the Reservation to be a more desirable location to reside. See Bezdek Dec. ¶¶ 9-12.

22. (MJS) Notwithstanding the modifications set forth in paragraphs 19-21 above, I agree with the Applicant's view that the concerns raised by OGD in Basis 6 of Contention OGD O

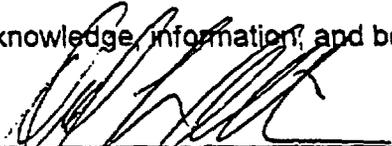
have been addressed satisfactorily, and no genuine dispute of material fact exists with respect to these matters.

23. (MJS) Further, based on my review, I am satisfied that the proposed PFS project would likely have either no impact (*i.e.*, neutral) or only a small impact, whether positive or negative, on the market value of existing housing structures on the Reservation. Thus, an impact on market values of property on the Reservation would not be high, and would not represent an impact to the Band that would be an environmental justice concern.

24. (MJS) Finally, I am satisfied that the issues raised in Contention OGD O, Basis 6, concerning environmental justice were considered and addressed in the DEIS. *See, e.g.*, DEIS at 6-30 to 6-31. Thus, the DEIS discusses (1) the socioeconomic impacts of the PFSF, and (2) the particular interrelated cultural, social, occupational, historical, and economic factors that might affect the market value of property on the Reservation and the property of Skull Valley Band members and other low-income and minority groups located outside the Reservation.

25. (DLA) I hereby certify that the foregoing statements in paragraphs 1(a), 2, and 4-9 above are true and correct to the best of my knowledge, information, and belief.

State of Utah
County of Uintah



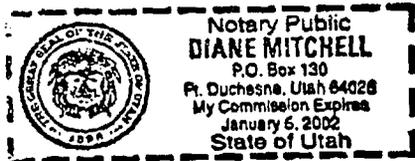
David L. Allison

Sworn to before me this
27 th day of June 2001



Notary Public

My Commission expires: 1-5-2002



26. (SAC) I hereby certify that the foregoing statements in paragraphs 1(b), 2-3, and 10-16 above are true and correct to the best of my knowledge, information, and belief.

Sam A. Carnes
Sam A. Carnes

Sworn to before me this
12th day of June 2001

[Signature]
Notary Public

My Commission expires: 11/17/2001

27. (MJS) I hereby certify that the foregoing statements in paragraphs 1(c), 2-3, and 17-24 above are true and correct to the best of my knowledge, information, and belief.

Michael J. Scott
Michael J. Scott

Sworn to before me this
27th day of June 2001

Alan Craig Pether
Notary Public

My Commission expires: 1/30/05



ATTACHMENT TO BASIS 6 AFFIDAVIT

David L. Allison

EDUCATION

B.A. in Range Science, Montana State University, 1974

EXPERIENCE

Superintendent

Bureau of Indian Affairs

November 1985 to present

Duty Stations:

Uintah Ouray and Skull Valley Agency

Northern Cheyenne Agency

Fort Washakie Agency

April, 1995-present

September, 1994-April, 1995

November, 1985-September, 1994

Under the immediate supervision of the Area Director, serves as Superintendent, and as such is the administrator responsible for the successful and efficient operation of all authorized Bureau of Indian Affairs programs and functions. Provides staff support to the Area Director at the local field operations level in the direction and management of the Bureau's trust and legal responsibilities to the Tribes. Assures that protection of trust natural resources is carried out and that the natural resources are developed to the greatest potential in the best interest of the Tribes served. Responsible for the maintenance of a quality government-to-government relationship with officials of other federal, state, or local governments and promotes the public image of the Bureau and Tribes. Promotes Tribal and Bureau programs to the public, other Indian organizations, educational institutions, and local community organizations. Responsible for managing, directing, and reestablishing policy for the following programs: Real Estate Services, Credit, Facilities Management, Forestry (Forestry Management/Fire Control, Timber Sale, Presale Development), Land Operations (Range Conservation, Soil Conservation), Automated Data Programs ("ADPs") Programs, Social Services, Individual Indian Money ("IIM") Accounts, Law Enforcement Services (including Jail Operation), and Roads. Responsible for control and protection of IIM accounts, which exceeded 19 Million Dollars. Directs all activities and programs toward the basic objective of determination for Tribal governments by reduction and narrowing the scope of Federal Government involvement in Tribal government affairs and activities; and expansion and development of Tribal government capacities in advancing Indian people toward a state of self-sufficiency. Interprets Federal laws, Indian Affairs and Federal regulations, Area Office directives, Tribal Constitutions and By-Laws, Tribal actions governing Tribal activities and must be aware of State Laws in the administration of Indian Affairs.

Land Operations Officer

Fort Peck Agency

February, 1981-May 12, 1985

Under the general supervision of the Superintendent. Directed the activity of the Agency's Land Operations Program consisting of range management, soil moisture conservation, forestry, and the Fort Peck Irrigation Project. Duties included management and direction, planning coordination, implementation and operation

of all assigned activities, including carrying out policy, program goals, objectives and standards as established by the Superintendent. Formulated and established budgets, work and program goals. Coordinated and guided the branch interests with other Bureau programs and other state, local, and federal agencies and Tribes. Served as an advisor to the Agency Superintendent on natural resource matters. Coordinated with Agency Superintendent on natural resources matters. Coordinated Agency activities necessary for the protection of Indian Trust resources, and coordinated rights protection activities within the Bureau's programs, and with the Justice Department, and other federal, state, and local agencies and Tribal officials.

Realty Officer
Fort Peck Agency

April, 1979-February, 1981

Supervised all aspects of the Agency's program; including titles and records, tenure and management, acquisition and disposal, and oil and gas. Supervised the preparation and advertisement of leases for approximately 3,100 farms and pasture leases. Worked with the Fort Peck Tribes in the selection of leases and approval of leases issued under Tribal preference. After reviewing soil survey data, negotiated leases based on the capabilities of the soils to produce. Made major modifications to the agency oil and gas leasing program. Responsible for the preparation and administration of the annual Realty budget in excess of \$250,000. As agency ADP coordinator, responsible for coordination, implementing and developing the agency automated data program. Designated as contracting officer representative for a \$250,000 records and resources contract. Responsible for lease compliance on farm and pasture, and oil and gas leases. Assigned dollar value to lease violations for trespass and negotiated with landowner and violator for assessment of these violations based on soil survey. Assisted lessor with conservation practices, farming practices and range management problems. In absence of Superintendent, performed duties as Acting Superintendent.

Soil Conservationist
Wind River Agency

December, 1978-April, 1979

Responsible for the monitoring and implementation of conservation and management practices on 2.3 million acres of the Wind River Reservation. Supervised the preparation of land use stipulations and field compliance checks for approximately 1000 agricultural leases, including assigning stocking rates, negotiation of rental rates, and planning of conservation practices. Supervised planning and engineering of conservation practices such as range improvements, boundary surveys, and irrigation structures. Prepared documentation on overgrazing, trespass, and other violations or disputes. Reported to the Realty Office; settled disputes over leases and lease cancellations. Made recommendations, and prepare and monitored annual land operations budget.

Soil Conservationist
Fort Peck Agency**December, 1976-December, 1978**

Responsible for the monitoring and implementation of conservation and management practices on 2.1 million acres of the Fort Peck Reservation. Supervised the preparation of land use stipulations and field compliance checks for approximately 3000 agricultural leases, including assigning stocking rates, negotiation of rental rates and planning of conservation practices. Supervised the planning and engineering of conservation practices such as range improvements, boundary surveys, and irrigation structures. Prepared documentation on overgrazing, trespassing and other violations or disputes. Reported to the Realty Officer on dollar values of violations. Along with the Agency Superintendent, and the Realty Officer, settled disputes over leases and lease cancellations. For six months, acted as Range Conservationist. As Range Conservationist, supervised billing and collection of range unit payments. Collected and prepared information for range inventory of reservation, and acted as contracting officer for the project. Assisted contractor in training field crews, developing inventory methods and establishing range transects. Planned and supervised construction of stock water improvements for \$90,000 range improvement project. Assisted in the development of ADP Coding Manual for coding range units. For two months, supervised operation of data processing section.

Soil Conservationist
Fort Peck Agency**November, 1975-December, 1976**

Responsible for the monitoring and implementation of conservation and management practices on 2.1 million acres of the Fort Peck Reservation. Supervised the preparation of land use stipulations and field compliance checks for approximately 3000 agricultural leases, including assigning stocking rates, negotiation of rental rates and irrigation structures. Prepared documentation on overgrazing trespass and other violations. Reported to Realty Officer on dollar values of violations.

Asst. County Supervisor
U. S. Dept. of Agriculture
Wolf Point, Montana**November, 1974-November, 1975**

Made and processed real estate and operating loans. Made real estate and chattel appraisals in support of loans. Operated an Indian Outreach Office at Poplar, MT for 9 months. Assisted in preparing a \$2.5 million loan to the Fort Peck Tribes. Reviewed title status reports and financial statements used to support loans. Conducted annual financial reviews of borrowers' operations and assisted them in planning the following years' sales and purchases. Provided technical information regarding conservation, and livestock and farming practices.