

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

NRC STAFF'S OBJECTIONS AND RESPONSES  
TO THE "STATE OF UTAH'S SEVENTEENTH SET OF  
DISCOVERY REQUESTS DIRECTED TO THE NRC STAFF"

INTRODUCTION

On January 17, 2002, the State of Utah ("State") filed the "State of Utah's Seventeenth Set of Discovery Requests Directed to the NRC Staff" ("Seventeenth Request" or "Request"), concerning the application for an Independent Spent Fuel Storage Installation ("ISFSI") filed by Private Fuel Storage, L.L.C. ("PFS" or "Applicant"). In its Request, the State filed 18 requests for documents concerning Contention Utah L (geotechnical issues). The NRC Staff ("Staff") hereby files its objections and responses to the State's Seventeenth Request, as follows.

GENERAL OBJECTIONS

**Objection 1.** The Staff objects to each of the State's discovery requests, in that the State has not complied with the Commission's regulations that govern discovery from the Staff. In this regard, it is well established that discovery against the Staff rests on a different footing than discovery in general. *Consumers Power Co.* (Midland Plant, Units 1 and 2), ALAB-634, 13 NRC 96, 97-98 (1981). While discovery from parties in an NRC adjudicatory proceeding is generally governed by the provisions of 10 C.F.R. § 2.740 *et seq.*, interrogatory and document discovery

against the Staff is governed by the provisions of 10 C.F.R. §§ 2.720(h)(ii)-(iii), 2.744 and 2.790.<sup>1</sup>

These regulations establish certain limits to the Staff's obligation to respond to discovery requests.

In particular, with regard to interrogatories, the Commission's rules provide:

[A] party may file with the presiding officer written interrogatories to be answered by NRC personnel with knowledge of the facts designated by the Executive Director for Operations. Upon a finding by the presiding officer that answers to the interrogatories are necessary to a proper decision in the proceeding and that answers to the interrogatories are not reasonably obtainable from any other source, the presiding officer may require that the staff answer the interrogatories.

10 C.F.R. § 2.720(h)(2)(ii). With regard to requests for the production of documents, the

Commission's rules similarly provide:

(a) A request for the production of an NRC record or document not available pursuant to 10 C.F.R. § 2.790 . . . shall set forth the records or documents requested, either by individual item or by category, and shall describe each item or category with reasonable particularity and shall state why that record or document is relevant to the proceeding.

(b) If the Executive Director for Operations objects to producing a requested record or document on the ground that (1) it is not relevant or (2) it is exempted from disclosure under § 2.790 and the disclosure is not necessary to a proper decision in the proceeding or the document or the information therein is reasonably obtainable from another source, he shall so advise the requesting party.

10 C.F.R. § 2.744(b). Finally, it is an adequate response to *any* discovery request for a party to state that the information or document requested is available in the public domain and to provide information to locate the material requested. 10 C.F.R. § 2.740(b)(1); *accord*, *Metropolitan Edison Co.* (Three Mile Island Nuclear Station, Unit No. 1), CLI-79-8, 10 NRC 141, 147-148 (1979).

Here, the State has not complied with the Commission's requirements governing discovery against the Staff. First, the State has not indicated that the requested information is not available

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<sup>1</sup> See also 10 C.F.R. §§ 2.740(f)(3), 2.740a(j), 2.740b(a), and 2.741(e) (excluding discovery from the Staff from the general provisions of those regulations).

in the public domain. Indeed, some of the information requested by the State is available to the public in the Commission's Public Document Room (PDR), or has previously been provided to the State. Further, the State has not indicated that the requested information is exempt from disclosure under 10 C.F.R. § 2.790 or that it can not obtain the documents from public sources. Similarly, to the extent that any documents may be exempt from disclosure, the State has not explained why any such exempt items are necessary to a proper decision in the proceeding.<sup>2</sup>

**Objection 2.** The Staff objects to each of the State's discovery requests, insofar as they request information that is not relevant to the issues in this proceeding and/or that exceeds the scope of admitted contention Utah L in this proceeding.

**Objection 3.** The Staff objects to the State's discovery requests insofar as they relate to matters which are outside the jurisdiction of the NRC and/or are beyond the proper scope of this proceeding.

**Objection 4.** The Staff objects to each of the State's discovery requests, insofar as they seek to impose an obligation to respond that is different from or greater than the obligations imposed by Commission requirements in 10 C.F.R. Part 2. *See, e.g.*, "Instruction B" ("Supplemental Responses") (Request at 2).

**Objection 5.** The Staff objects to each of the State's discovery requests, insofar as they may request information or documents from the "Nuclear Regulatory Commission," "NRC," or other persons or entities who are not NRC Staff members or consultants in this proceeding. *See, e.g.*, "Definition A" (Request at 2-3). The NRC and persons other than Staff members (*e.g.*, Commissioners, Commissioners' Assistants, Licensing Board members, ACRS members, etc.) are not parties to this proceeding and are not properly subject to the State's requests for discovery.

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<sup>2</sup> In addition, to the extent that the instant discovery requests seek information that has been withheld from public disclosure as proprietary information, the State has been afforded access to that material by the Applicant under a confidentiality agreement, and the State has shown no reason why it could not obtain the requested information from the Applicant.

**Objection 6.** The Staff objects to each of the State's discovery requests as unduly burdensome insofar as they request that descriptions of documents are to include the name of "the person or persons having possession and/or copies thereof, the person or persons to whom the document was sent, all persons who reviewed the document, the substance and nature of the document, [and] the present custodian of the document . . . ." See Definition E ("describe" or "identify") (Request at 4).

**Objection 7.** The Staff objects to each of the State's discovery requests as unduly burdensome, and irrelevant and not calculated to lead to the discovery of admissible evidence, insofar as they request the discovery of "material contained in, or which might be derived or ascertained from, the personal files of NRC Staff employees, representatives, investigators, and agents." See Definition K (Request at 5).

**Objection 8.** The Staff objects to each of the State's discovery requests, insofar as they may request information pertaining to or copies of intra-agency memoranda, notes and other pre-decisional materials; or information or documents protected under the attorney-client privilege, the doctrines governing the disclosure of attorney work product and trial preparation materials, and/or any other privilege or exemption that warrants or permits the non-disclosure of documents under the Freedom of Information Act, as set forth in 10 C.F.R. § 2.790(a). Notwithstanding this objection, to the extent, if any, that documents are requested in the State's Seventeenth Request, the Staff will prepare a privilege log to identify documents that are sought to be withheld from discovery as privileged or exempt from disclosure, and will produce that log to the State.

**Objection 9.** The Staff objects to each of the State's discovery requests, insofar as they do not pertain to new matters discussed in Supplement No. 2 to the Safety Evaluation Report ("SER") for the PFS Facility, issued on December 21, 2001, which are the only matters that are currently subject to discovery concerning Contention Utah L under the Licensing Board's scheduling orders in this proceeding. See, e.g., "Attachment A" to "Order (General Schedule

Revisions),” dated September 20, 2001 (discovery against the Staff on Contention Utah L has been completed, except as to new matters in SER Supplement No. 2 (“SSER No. 2”).

### RESPONSES TO DISCOVERY REQUESTS

Notwithstanding the above objections to the State’s Seventeenth Request, and without waiving these objections or its right to interpose these or other objections in the future, the Staff hereby states the following additional objections and responses to the State’s Request.

#### **CONTENTION UTAH L**

##### **A. Document Requests**

DOCUMENT REQUEST NO. 1. All calculations, analyses, or other documents prepared by or for the Staff that support its conclusions in the SER Supplement No. 2 (geotechnical and design changes to PFS facility) (“SSER No. 2”).

STAFF RESPONSE. The Staff objects to this request on the grounds that it (1) is vague, confusing and ambiguous insofar as it fails to specify the particular “conclusions” and/or “geotechnical and design changes to PFS facility” discussed in SSER No. 2 that are the subject of this request, (2) is overly broad and unduly burdensome, (3) seeks to discover information concerning matters that are beyond the scope of Contention Utah L, as admitted, (4) insofar as it seeks information concerning matters that are beyond the scope of Contention Utah L, is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence in this proceeding, and (5) insofar as it seeks “calculations, analyses, or other documents” submitted by or on behalf of PFS, the State has not demonstrated that the information requested could not have been obtained from publicly available sources, including, without limitation, documents submitted by Holtec International and/or PFS in this proceeding or the proceeding on Holtec’s HI-STORM cask application. Notwithstanding these objections, documents will be produced to the extent that such documents (a) are not objected to, (b) are not otherwise available from other sources, and (c) are

not draft, predecisional and/or privileged documents that are exempt from disclosure under 10 C.F.R. § 2.790, in which case they will be identified in a privilege log.<sup>3</sup>

DOCUMENT REQUEST NO. 2. All calculations, analyses, or other documents prepared by or for the Staff that the Staff may rely upon or otherwise use at the hearing presently set to begin in April 2002, that support its conclusions in the SSER No. 2.

STAFF RESPONSE. See Response to Document Request No. 1, *supra*.

DOCUMENT REQUEST NO. 3. All calculations, analyses, or other documents that support the Staff's conclusions based on its review of revised and new information relating to information in the following references: PFS, 2001; Geomatrix Consultants, Inc. 2001a, 2001b, 2001c and 2001d; Northland Geophysical, L.L.C., 2001; Stone and Webster 2001 a, b, c, d; Donnell 2001; Parkyn 2001 (hereafter "new or revised information"). See SSER No. 2 at 7.

STAFF RESPONSE. The Staff objects to this request on the grounds that it (1) is vague, confusing and ambiguous insofar as it fails to specify the particular "conclusions," "revised and new information," and/or the "information" contained in the 13 detailed and extensive references listed in this request, (2) is overly broad and unduly burdensome, (3) seeks to discover information concerning matters that are beyond the scope of Contention Utah L, as admitted, (4) insofar as it seeks information concerning matters that are beyond the scope of Contention Utah L, is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence in this proceeding, and (5) insofar as it seeks "calculations, analyses, or other documents" submitted by or on behalf

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<sup>3</sup> Attached hereto is a list of documents in the possession of the Staff which may be responsive to one or more of the document requests contained in the State's Seventeenth Request. These documents consist of two groups: (a) documents that are being produced herewith (in a separate mailing, by express mail), and (b) documents that are being withheld as privileged or otherwise exempt from disclosure under 10 C.F.R. § 2.790. Documents relating to Utah Contention L that have previously been produced or identified by the Staff, or that are in the docket of the PFS proceeding (including legal correspondence, pleadings, Orders, license application submittals, and licensing-related correspondence), are not identified herein. Those materials should already be in the State's possession, as a result of the State's participation as a party in the PFS proceeding and its inclusion on the PFS and Staff service lists.

of PFS, the State has not demonstrated that the information requested could not have been obtained from publicly available sources, including, without limitation, documents submitted by Holtec International and/or PFS in this proceeding or the proceeding on Holtec's HI-STORM cask application. Notwithstanding these objections, documents will be produced to the extent that such documents (a) are not objected to, (b) are not otherwise available from other sources, and (c) are not draft, predecisional and/or privileged documents that are exempt from disclosure under 10 C.F.R. § 2.790, in which case they will be identified in a privilege log.

DOCUMENT REQUEST NO. 4. All calculations, analyses, or other documents that the Staff may rely upon or otherwise use at the hearing set to begin in April 2002 that support the Staff's conclusion based on its review of revised and new information relating to information in the following references: PFS, 2001; Geomatrix Consultants, Inc. 2001a, 2001b, 2001c and 2001d; Northland Geophysical, L.L.C., 2001; Stone and Webster 2001 a, b, c, d; Donnell 2001; Parkyn 2001. See SSER No. 2 at 7.

STAFF RESPONSE. See Response to Document Request No. 3, *supra*.

DOCUMENT REQUEST NO. 5. All calculations, analyses or other documents that add to, change or supplement the Stamatakos report (Stamatakos, et al., 1999).

STAFF RESPONSE. The Staff objects to this request on the grounds that it (1) is vague, confusing and ambiguous insofar as it fails to specify the particular "calculations, analyses, or other documents," or the particular aspects or portions of the 1999 Stamatakos report, that are the subject of this request, (2) is overly broad and unduly burdensome, (3) seeks to discover information concerning matters that are beyond the scope of Contention Utah L, as admitted, (4) insofar as it seeks information concerning matters that are beyond the scope of Contention Utah L, is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence in this proceeding, and (5) insofar as it seeks "calculations, analyses, or other documents" submitted by or on behalf of PFS, the State has not demonstrated that the information requested

could not have been obtained from publicly available sources, including, without limitation, documents submitted by Holtec International and/or PFS in this proceeding or the proceeding on Holtec's HI-STORM cask application. Notwithstanding these objections, documents will be produced to the extent that such documents (a) are not objected to, (b) are not otherwise available from other sources, and (c) are not draft, predecisional and/or privileged documents that are exempt from disclosure under 10 C.F.R. § 2.790, in which case they will be identified in a privilege log.

DOCUMENT REQUEST NO. 6. Any documents relating to the Staff's survey of "state-of-the art literature; [analysis of] the basis of current NRC regulations, and [performance of] independent analyses of geophysical data and sensitivity studies of model alternatives and consideration of uncertainties" with respect to new or revised information. See SSER at 15; see also Request No. 3 above.

STAFF RESPONSE. The Staff objects to this request on the grounds that it (1) is vague, confusing and ambiguous insofar as it fails to identify the "new or revised information" that is the subject of this request, (2) is overly broad and unduly burdensome, (3) seeks to discover information concerning matters that are beyond the scope of Contention Utah L, as admitted, (4) insofar as it seeks information concerning matters that are beyond the scope of Contention Utah L, is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence in this proceeding, and (5) insofar as it seeks the production of documents submitted by or on behalf of PFS, the State has not demonstrated that the information requested could not have been obtained from publicly available sources, including, without limitation, documents submitted by Holtec International and/or PFS in this proceeding or the proceeding on Holtec's HI-STORM cask application. Notwithstanding these objections, documents will be produced to the extent that such documents (a) are not objected to, (b) are not otherwise available from other sources, and (c) are not draft, predecisional and/or privileged documents that are exempt from disclosure under 10 C.F.R. § 2.790, in which case they will be identified in a privilege log.



DOCUMENT REQUEST NO. 7. All calculations, analyses, or other documents prepared by or for the Staff that relate to the Staff's conclusion "that there is sufficient information on shear wave velocity profiles in the soil strata and ground motion attenuation modeling for use in other sections of the SAR to develop the design bases of the proposed Facility, perform additional safety analysis, and demonstrate compliance with the regulatory requirements of 10 CFR 72.90(b-d), 72.92(a-c), 72.98(b), 72.98(c)(3), and 72.122(b) with respect to this issue." See SSER No. 2 at 27.

STAFF RESPONSE. The Staff objects to this request on the grounds that it (1) is overly broad and unduly burdensome, (2) seeks to discover information concerning matters that are beyond the scope of Contention Utah L, as admitted, (3) insofar as it seeks information concerning matters that are beyond the scope of Contention Utah L, is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence in this proceeding, and (4) insofar as it seeks the production of documents submitted by or on behalf of PFS, the State has not demonstrated that the information requested could not have been obtained from publicly available sources, including, without limitation, documents submitted by Holtec International and/or PFS in this proceeding or the proceeding on Holtec's HI-STORM cask application. Notwithstanding these objections, documents will be produced to the extent that such documents (a) are not objected to, (b) are not otherwise available from other sources, and (c) are not draft, predecisional and/or privileged documents that are exempt from disclosure under 10 C.F.R. § 2.790, in which case they will be identified in a privilege log.

DOCUMENT REQUEST NO. 8. A copy of the "slip tendency analysis of the Skull Valley fault systems performed by the staff." See SSER No. 2 at 18.

STAFF RESPONSE. Documents responsive to this request will be produced to the extent that such documents are not draft, predecisional and/or privileged documents that are exempt from disclosure under 10 C.F.R. § 2.790, in which case they will be identified in a privilege log.

DOCUMENT REQUEST NO. 9. The Staff's "sensitivity calculations" which led the Staff to "determine[ ] that the mean frequency of exceedance of ground motions changes by less than a factor of two." See SSER No. 2 at 21.

STAFF RESPONSE. Documents responsive to this request will be produced to the extent that such documents have not been produced or identified previously, or are not draft, predecisional and/or privileged documents that are exempt from disclosure under 10 C.F.R. § 2.790, in which case they will be identified in a privilege log.

DOCUMENT REQUEST NO. 10. All calculations, analyses, or other documents prepared by or for the Staff relating to the Staff's conclusions that although the facility site-specific seismic loads are higher than the seismic loads considered in the HI-STORM 100 FSAR, "resulting loads on the MPC and fuel assemblies remain bounded by the loads considered in the HI-STORM 100 FSAR." See SSER No. 2 § 5.1.1.4 at 1.

STAFF RESPONSE. The Staff objects to this request on the grounds that it (1) is vague, confusing and ambiguous insofar as it fails to identify the "calculations, analyses, or other documents" that are the subject of this request, and (2) insofar as it seeks the production of documents submitted by or on behalf of PFS, the State has not demonstrated that the information requested could not have been obtained from publicly available sources, including, without limitation, documents submitted by Holtec International and/or PFS in this proceeding or the proceeding on Holtec's HI-STORM cask application. Notwithstanding these objections, documents will be produced to the extent that such documents (a) are not objected to, (b) are not otherwise available from other sources, and (c) are not draft, predecisional and/or privileged documents that are exempt from disclosure under 10 C.F.R. § 2.790, in which case they will be identified in a privilege log.

DOCUMENT REQUEST NO. 11. All calculations, analyses, or other documents relating to the Staff's conclusion that "sliding of the pads would not constitute a safety hazard because pad sliding tends to increase the stability of the casks (against sliding or tip over). SSER No. 2 at 45.

STAFF RESPONSE. The Staff objects to this request on the grounds that it (1) is vague, confusing and ambiguous insofar as it fails to identify the “calculations, analyses, or other documents” that are the subject of this request, and (2) insofar as it seeks the production of documents submitted by or on behalf of PFS, the State has not demonstrated that the information requested could not have been obtained from publicly available sources, including, without limitation, documents submitted by Holtec International and/or PFS in this proceeding or the proceeding on Holtec’s HI-STORM cask application. Notwithstanding these objections, documents will be produced to the extent that such documents (a) are not objected to, (b) are not otherwise available from other sources, and (c) are not draft, predecisional and/or privileged documents that are exempt from disclosure under 10 C.F.R. § 2.790, in which case they will be identified in a privilege log.

DOCUMENT REQUEST NO. 12. All calculations, analyses, or other documents relating to the Staff’s conclusion that “there are no safety-related external connections to the pads or casks that may rupture or be misaligned as a result of pad sliding.” See SSER No. 2 at 45.

STAFF RESPONSE. See Response to Document Request No. 11, *supra*.

DOCUMENT REQUEST NO. 13. All calculations, analyses, or other documents relating to the Staff’s conclusions “that the proposed cask-pad design is acceptable considering the potential for instability resulting from sliding of the pads under dynamic loading.” SSER No. 2 at 45.

STAFF RESPONSE. See Response to Document Request No. 11, *supra*.

DOCUMENT REQUEST NO. 14. All calculations, analyses, or other documents relating to the Staff’s conclusion that “the proposed cask-pad design is acceptable considering the potential for bearing-capacity failure under dynamic loading.” See SSER No. 2 at 46.

STAFF RESPONSE. See Response to Document Request No. 11, *supra*.

DOCUMENT REQUEST NO. 15. All calculations, analyses, or other documents relating to the Staff's conclusion that either of the Applicant's "strength-parameter values (i.e.,  $c_u$  value of 3.18 ksf, or friction angle of 30° with zero cohesion) is accepted as representing the average strength of layer 1 soil for the purpose of determining the allowable bearing pressure for the Canister Transfer Building foundation." See SSER No. 2 at 47.

STAFF RESPONSE. See Response to Document Request No. 11, *supra*.

DOCUMENT REQUEST NO. 16. All calculations, analyses, or other documents relating to the Staff's conclusion that the "applicant's evaluation regarding the estimated allowable bearing pressure under static loading" is acceptable. See SSER No. 2 at 47.

STAFF RESPONSE. See Response to Document Request No. 11, *supra*.

DOCUMENT REQUEST NO. 17. All calculations, analyses, or other documents relating to the Staff's conclusion that "the proposed design of the Canister Transfer Building foundation is acceptable considering the potential for bearing-capacity failure under static loading." See SSER No. 2 at 48.

STAFF RESPONSE. See Response to Document Request No. 11, *supra*.

DOCUMENT REQUEST NO. 18. All calculations, analyses, or other documents relating to the Staff's conclusions that the Applicant's "stability analysis [of the CTB foundation] is acceptable." See SSER No. 2 at 48.

STAFF RESPONSE. The Staff objects to this request on the grounds that it (1) is vague, confusing and ambiguous insofar as it fails to identify the "calculations, analyses, or other documents" that are the subject of this request, (2) mischaracterizes the referenced statement in SER Supplement No. 2, in that this statement explicitly concerned the adequacy of "the applicant's evaluation of the stability of the Canister Transfer Building foundation with respect to the potential for excessive settlement under static and dynamic loadings," and (3) insofar as it seeks the production of documents submitted by or on behalf of PFS, the State has not demonstrated that the information requested could not have been obtained from publicly available sources, including,

without limitation, documents submitted by Holtec International and/or PFS in this proceeding or the proceeding on Holtec's HI-STORM cask application. Notwithstanding these objections, documents will be produced to the extent that such documents (a) are not objected to, (b) are not otherwise available from other sources, and (c) are not draft, predecisional and/or privileged documents that are exempt from disclosure under 10 C.F.R. § 2.790, in which case they will be identified in a privilege log.

Respectfully submitted,

**/RA/**

Sherwin E. Turk  
Martin J. O'Neill  
Counsel for NRC Staff

Dated at Rockville, Maryland  
this 1st day of February 2002

February 1, 2002

DOCUMENTS PRODUCED OR IDENTIFIED IN RESPONSE TO  
THE STATE OF UTAH'S SEVENTEENTH SET OF  
DISCOVERY REQUESTS DIRECTED TO THE NRC STAFF<sup>1</sup>

**A. Documents Produced**

In response to the "State of Utah's Seventeenth Set of Discovery Requests Directed to the NRC Staff," dated January 17, 2002, the NRC Staff ("Staff") is producing the following documents:

1. "Scientific Notebook 353" - entries by John Stamatakos (SWRI/CNWRA) regarding Staff analyses that have been performed regarding the probabilistic seismic hazard analysis ("PSHA") for the Private Fuel Storage Facility. Contained herein are the following:
  - A. A comparative analysis of probabilistic hazards results for sites in the Western U.S. A color copy of the graph ("Comparison of Western U.S. Hazard Curves") contained in the Scientific Notebook (described above) has been included for clarity purposes.
  - B. A "3DStress"™ Analysis performed by John Stamatakos concerning Skull Valley and central Utah fault system. Color copies of various figures contained in the Scientific Notebook (Item 1 above) are also included for clarity purposes.
2. A diskette containing, in WordPerfect format, five digital files of the faults used in the above-referenced 3DStress Analysis (labeled "Utah faults - UTM coordinates"). Each file contains x/y coordinates of fault segments (UTM coordinates), based on digitized maps provided by PFS in the SAR and related supporting documents.
3. A copy of the User's Manual for 3DStress™ (version 1.3.3), which has been printed from HTML files. The 3DStress™ computer program is subject to copyright protection and is commercially available.
4. Excerpts from a Scientific Notebook relating to review of the PFS Safety Analysis Report, with entries by Dan Pomerening (SWRI/CNWRA), dated 11/19/01.
5. Three sets of graphical representations of seismic-related data (based on information provided by PFS), dated 1/30/02, provided by Dan Pomerening.
6. A CD-ROM (labeled "NRC Staff - Seismic Event Data") with three files containing the input data (in Microsoft Excel format) used to generate the graphical representations (item 5 above) (file names "Accel Time History Comp.xls"; "Dpom01.xls"; and "Peak Broadened RS.xls")
7. A paper by S.N. Doshi and M.S. Mesdary, entitled "Estimations of Dynamic Modulus of Soil-Cement," Australian Research Board, 15(2), June 1985.

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<sup>1</sup> Documents identified herein are in addition to the references listed in Supplement No. 2 to the NRC Staff's Safety Evaluation Report concerning the Private Fuel Storage Facility, issued on December 21, 2001.

**B. Documents Withheld Under a Claim of Privilege.<sup>2</sup>**

<u>Date</u>	<u>Author</u> <sup>3</sup>	<u>Recipient</u>	<u>Subject</u>	<u>Privilege Asserted</u>
9/30/99	J. Unruh (CNWRA)	D. Pomerening (CNWRA)	Memorandum: "Review Comments on 'Development of Time Histories For 2,000-Year Return Period Design Spectra,' for Private Fuel Storage Skull Valley, UT. SwRI Project 20-01405-041"	PD
8/7/01	M. Shah (NRC)	V. Luk (SNL) cc: various	E-mail - "Subject: Information for SSI Analyses for PFS"	PD
10/8/01	V. Luk (SNL)	M. Shah (NRC) cc: various	E-mail - "Subject: San Fernando EQ, Pacoima Dam Record"	PD
Undated [Jan. 2002]	V. Luk, et al. (SNL)	[NRC]	"Draft Summary Report on Seismic Analyses of HI-STORM 100 casks Private Fuel Storage (PFS) Facilities"	PD
2/1/02	M. Shah (NRC)	S. Turk (NRC) M. O'Neill (NRC)	E-mail - "Subject: Comments on the ALTRAN Report," with attachment	AC, AWP

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<sup>2</sup> The following abbreviations are used herein: AC - attorney-client privilege; AWP - attorney work product; PD - predecisional deliberative process.

<sup>3</sup> Organizations or other entities are abbreviated herein as follows: NRC Staff - "NRC"; Center for Nuclear Waste Regulatory Analyses (a division of the Southwest Research Institute and an NRC contractor) - "CNWRA"; Sandia National Laboratory (an NRC contractor) - "SNL." The term "various" refers to some combination of NRC staff members and/or NRC contractors.

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PRIVATE FUEL STORAGE L.L.C. ) Docket No. 72-22-ISFSI  
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(Independent Spent )  
Fuel Storage Installation) )

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S OBJECTIONS AND RESPONSES TO THE 'STATE OF UTAH'S SEVENTEENTH SET OF DISCOVERY REQUESTS DIRECTED TO THE NRC STAFF,'" in the above captioned proceeding have been served on the following through deposit in the NRC's internal mail system, with copies by electronic mail, as indicated by an asterisk, or by deposit in the U.S. Postal Service, as indicated by double asterisk, with copies by electronic mail this 1st day of February, 2001:

Michael C. Farrar, Chairman\*  
Administrative Judge  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555  
(E-mail copy to [MCF@NRC.GOV](mailto:MCF@NRC.GOV))

Office of the Secretary\*  
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