

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 NINETEENTH SET OF  
DISCOVERY REQUESTS DIRECTED TO THE NRC STAFF"

INTRODUCTION

On January 30, 2002, the State of Utah ("State") filed the "State of Utah's Nineteenth Set of Discovery Requests Directed to the NRC Staff" ("Nineteenth 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 (a) six requests for admission, (b) four interrogatories, and (c) six document requests concerning Contention Utah O (hydrology). The NRC Staff ("Staff") hereby files its objections and responses to the State's Nineteenth Request, as follows.<sup>1</sup>

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

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<sup>1</sup> The Staff's answers to the State's requests for admissions and interrogatories are supported by the "Affidavit of Chester Poslusny, Jr.," and the "Affidavit of Richard H. Kettle," attached hereto; objections are stated by Counsel.

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>2</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).

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<sup>2</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).

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 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 cannot 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.

**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 O 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 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.

**Objection 6.** The Staff objects to each of the State's discovery requests, insofar as they request personal information such as the home address and telephone numbers of persons employed by or affiliated with the Staff, and which may be protected from disclosure under 10 C.F.R. § 2.790(a). See, e.g., Definition E.1 ("describe" or "identify") (Request at 4).

**Objection 7.** 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.2 ("describe" or "identify") (Request at 4-5).

**Objection 8.** The Staff objects to each of the State's discovery requests as unduly burdensome insofar as they request that descriptions of "any activity, occurrence, or communication" are to include the identity "of each person alleged to have had any involvement with or knowledge of the activity, occurrence, or communication, and the identity of any document recording or documenting such activity, occurrence, or communication." See Definition E.4 ("describe" or "identify") (Request at 5).

**Objection 9.** 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 L (Request at 6).

**Objection 10.** 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 Nineteenth 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.

### RESPONSES TO DISCOVERY REQUESTS

Notwithstanding the above objections to the State's Nineteenth 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 O**

##### **A. Requests for Admissions**

REQUEST FOR ADMISSION NO. 1. Do you admit that NRC has the authority to regulate the handling, management and disposal of non-radiological contaminants at the PFS site?

STAFF RESPONSE. The Staff objects to this request on the ground that it (1) is unduly vague, confusing and ambiguous, (2) constitutes an impermissible compound question, and (3) calls for a legal conclusion.

REQUEST FOR ADMISSION NO. 2. Do you admit that NRC has no specific regulatory requirements for the clean up of non-radioactive spills or releases from a facility such as the proposed PFS ISFSI?

STAFF RESPONSE. The Staff objects to this request on the ground that it (1) is unduly vague, confusing and ambiguous, (2) constitutes an impermissible compound question, (3) is overly broad and unduly burdensome, insofar as it requests information with respect to facilities other than the proposed PFSF, (4) is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence insofar as it pertains to other facilities, and (5) calls for a legal

conclusion. Notwithstanding (and without waiving) these objections, the Staff states as follows:

No. See, e.g., FEIS Section 9.4.2 (proposed license conditions 1.D and 5.C).

REQUEST FOR ADMISSION NO. 3. Do you admit the NRC has no specific clean up standards for non-radiological contaminants at ISFSI sites?

STAFF RESPONSE. See Response to Request for Admission No. 2.

REQUEST FOR ADMISSION NO. 4. Do you admit that NRC does not require any financial commitment from an applicant such as PFS to assure the clean up of any non-radiological contamination that may occur at an ISFSI site?

STAFF RESPONSE. The Staff objects to this request on the grounds that (1) the issue of whether the NRC requires applicants to provide financial commitment to assure clean up of non-radiological contamination is beyond the scope of Contention Utah O, as admitted, (2) it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, both insofar as it raises this question and insofar as it pertains to other facilities, (3) is overly broad and unduly burdensome, insofar as it requests information with respect to facilities other than the proposed PFSF, and (5) calls for a legal conclusion.

REQUEST FOR ADMISSION NO. 5. Do you admit that PFS has not submitted to NRC a Best Management Practices Plan “for properly responding to fuel leaks or spills to minimize . . . contamination of groundwater.” PFS Final Environmental Impact Statement, NUREG-1714 (January 11, 2002) (“FEIS”) at 4-14.

STAFF RESPONSE. Yes.

REQUEST FOR ADMISSION NO. 6. Do you admit that no studies, independent from whatever studies PFS may have submitted to the Staff, have been prepared by or for the Staff with respect to site specific characterization of the aquifer below the PFS site.

STAFF RESPONSE. The Staff objects to this request on the ground that it is vague and confusing in that it is not clear what studies “with respect to” site specific characterization might be. Notwithstanding (and without waiving) this objection, the Staff states as follows: Yes.

**B. Interrogatories**

INTERROGATORY NO. 1. Describe with specificity whether NRC has allowed any facility regulated by the NRC to discharge liquids or contents from such containments as the proposed PFS detention pond, drain sumps in the cask load/unload bay of the Canister Transfer Building, or from the laboratory in the Health Physics Building, directly onto the land surface.

STAFF RESPONSE. The Staff objects to this request on the grounds that it (1) is unduly vague, confusing and ambiguous, in its use of the terms “allowed,” “liquids,” “contents,” “such containments as,” (2) constitutes an impermissible compound question, (3) is overly broad and unduly burdensome, insofar as it requests information with respect to facilities other than the proposed PFSF, and (4) is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

INTERROGATORY NO. 2. Describe NRC’s inspection program, if any, with respect to PFS’s proposed sewer/wastewater system, detention pond, on-site spills, and collection and disposal of liquid from the sump in the CTB and laboratory in the Health Physics Building, and the basis thereof.

STAFF RESPONSE. The Staff objects to this request on the grounds that it (1) seeks to discover information that is beyond the scope of Contention Utah O, as admitted, in that the request is not limited to non-radiological effects, and (2) seeks information that is beyond the scope of this proceeding insofar as it relates to the NRC inspection program.<sup>3</sup> Notwithstanding (and without waiving) this objection, the Staff states as follows.

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<sup>3</sup> Any question challenge to the NRC’s inspection program would be an attack on the regulations, which is prohibited under 10 C.F.R. § 2.758(a).

NRC Inspection Manual Procedure 60855, "Operation of An ISFSI," sets forth general guidance on the performance of NRC inspections of ISFSIs. Currently, there is no inspection plan for the proposed PFSF. Such a plan would be developed in accordance with Procedure 60855 only if the NRC grants the application and PFS constructs the facility.

INTERROGATORY NO. 3. The FEIS states: "If contamination of soils or groundwater should occur at the detention basin, site cleanup actions would be required to restore the site." FEIS at 4-13. If contamination of soils or groundwater were to occur, describe with specificity the cleanup actions NRC would demand of PFS and the basis thereof; the standards to which NRC would hold PFS for the cleanup, and the basis thereof; and the financial commitments, if any, NRC requires of an applicant to provide for such cleanup.

STAFF RESPONSE. The Staff objects to this request on the grounds that it (1) is overly broad and unduly burdensome; (2) constitutes a compound question that touches on and inquires into several separate matters; (3) calls for speculation as to what "contamination of soils or groundwater" might occur; (4) requests information that is beyond the scope of Contention Utah O, as admitted, in that it (i) is not limited to non-radiological contamination, and (ii) requests information with respect to whether PFS must make any financial commitment to assure clean up of contamination; and (5) is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Notwithstanding (and without waiving) these objections, the Staff states as follows. If contamination of soil or groundwater occurred at the site and violated current EPA, OSHA, or BIA requirements, or violated an NRC license condition, the NRC Staff, upon discovering such violation, would refer it to the cognizant agency for appropriate action and/or would take enforcement action as appropriate.

INTERROGATORY NO. 4. With respect to non-radiological contamination, describe with specificity what redundant environmental controls PFS will have in place for the protection of human health and safety, and the protection of surface and groundwater resources and the basis thereof.

STAFF RESPONSE. The Staff objects to this request on the grounds that (1) it is vague, confusing and ambiguous in its use of the terms, “redundant environmental controls,” “protection of human health and safety,” and “protection of surface and groundwater resources,” and (2) the State has not demonstrated that the requested information is not otherwise available from other sources including, without limitation, the Commission’s Public Document Room (“PDR”), PFS and/or documents filed in this proceeding. Notwithstanding (and without waiving) these objections, the Staff notes that environmental controls are described, *e.g.*, in Section 9.1.3 of the Applicant’s Environmental Report (ER); *see also*, FEIS Section 9.4.2 (proposed license conditions 1.D and 5.C); and “Applicant’s Motion for Summary Disposition of Utah Contention O - Hydrology,” Declaration of H.C. “George” Liang and Donald Wayne Lewis, ¶ 32 (June 29, 2001).

**C. Document Requests**

DOCUMENT REQUEST NO. 1. All documents identified, used or referred to in responding to the above requests for admission and interrogatories.

STAFF RESPONSE. The Staff objects to this request on the grounds that (1) to the extent it seeks the production of documents within the scope of the State’s interrogatories, it (i) is vague and ambiguous insofar as the interrogatories are vague and ambiguous, (ii) seeks to discover information that is beyond the scope of Contention Utah O, as admitted, and (iii) is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence in this proceeding; and (2) the State has not demonstrated that the information requested could not have been obtained from other sources, including, without limitation, the Commission’s PDR, documents submitted by PFS in this proceeding, and the FEIS. Notwithstanding (and without waiving) 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>4</sup>

DOCUMENT REQUEST NO. 2. All calculations, analyses, or other documents prepared by or for the Staff relating to testimony or evidence that the Staff may rely upon or otherwise use at the hearing on Contention Utah O.

STAFF RESPONSE. See General Objection 10, *supra*. In addition, the Staff objects to this request on the ground that the Staff has not yet prepared testimony or evidence for use at the hearing on Contention Utah O or on which the Staff intends to rely, nor has the Staff identified documents relating to such testimony or evidence, and, accordingly, the Staff cannot produce such documents at this time. Notwithstanding (and without waiving) 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. 3. All calculations, analyses, or other documents prepared by or for the Staff that support its conclusions in § 4.2 (Water Resources) of the FEIS with respect to the effects of PFS's operations on groundwater, surface water, and human health and safety.

STAFF RESPONSE. The Staff objects to this request on the grounds that (1) it seeks to discover information that is beyond the scope of Contention Utah O, as admitted, insofar as it is

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<sup>4</sup> Attached hereto is a list of document(s) in the possession of the Staff which may be responsive to one or more of the document requests contained in the State's Nineteenth Request, which is (are) being produced or identified herewith. No documents have been identified at this time that are being withheld as privileged or otherwise exempt from disclosure under 10 C.F.R. § 2.790. Documents relating to Contention Utah O that are in the docket of the PFS proceeding (including legal correspondence, pleadings, Orders, license application submittals, and licensing-related correspondence), are not identified in the Staff's response. 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.

not limited to effects resulting from non-radiological materials, and (2) the State has not demonstrated that the information requested could not have been obtained from other sources, including, without limitation, the Commission's PDR, documents submitted by PFS in this proceeding, and the FEIS. Notwithstanding (and without waiving) this objection, 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 prepared by or for the Staff that relate in any way to the potential for surface or ground water contamination at the proposed site.

STAFF RESPONSE. The Staff objects to this request on the grounds that (1) it is overly broad and unduly burdensome insofar as it requests documents that "relate in any way" to the potential for surface or ground water contamination, (2) it seeks to discover information that is beyond the scope of Contention Utah O, as admitted, and, in particular, is not limited to non-radiological contamination, and (3) the State has not demonstrated that the information requested could not have been obtained from other sources, including, without limitation, the Commission's PDR, and documents submitted by PFS in this proceeding, and the FEIS. Notwithstanding (and without waiving) 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. 5 All calculations, analyses, or other documents prepared by or for the Staff that relate in any way to the potential for health and safety impacts from non-radiological contamination.

STAFF RESPONSE. The Staff objects to this request on the ground that the State has not demonstrated that the information requested could not have been obtained from other sources, including, without limitation, the Commission's PDR, documents submitted by PFS in this proceeding, and the FEIS. Notwithstanding (and without waiving) this objection, 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. The FEIS states that "the NRC staff is authorized to confer privately with the applicant on an informal basis, and has done so with PFS." FEIS at G-123. Provide all documents, other than NRC requests for additional information ("RAIs") and PFS's responses to RAIs, that the Staff has obtained from conferring privately with the Applicant with respect to any issue that relates to Utah O.

STAFF RESPONSE. Documents, if any, 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,

Robert M. Weisman  
Counsel for NRC Staff

Dated at Rockville, Maryland  
this 13<sup>th</sup> of February 2002

February 13, 2002

DOCUMENTS PRODUCED OR IDENTIFIED IN  
RESPONSE TO THE STATE OF UTAH'S NINETEENTH SET  
OF DISCOVERY REQUESTS DIRECTED TO THE NRC STAFF

In response to "The State of Utah's Nineteenth Set of Discovery Requests Directed to the NRC Staff," dated January 30, 2002, the NRC Staff ("Staff") is identifying the following document, a copy of which is being produced herewith to the State and PFS.

- R.H. Kettle, "Calculation of Leach Field Water Application Rate" (date unknown).

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) )

AFFIDAVIT OF RICHARD H. KETELLE

Richard H. Ketelle, having first been duly sworn, does hereby state as follows:

1. I am employed as a subsurface contamination specialist with the Bechtel-Jacobs Corporation in Oak Ridge, Tennessee. I am providing this affidavit under a technical assistance contract between the NRC Staff and the Oak Ridge National Laboratory ("ORNL"). A statement of my professional qualifications is attached hereto.

2. As part of my official responsibilities, I assisted the NRC Staff in its evaluation of the potential environmental impacts related to the Private Fuel Storage L.L.C. ("PFS" or "Applicant") proposal to construct and operate an Independent Spent Fuel Storage Installation ("ISFSI") on the Reservation of the Skull Valley Band of Goshute Indians located in Skull Valley, Utah. Further, I assisted in the preparation of the NRC Staff and cooperating Federal agencies' "Final 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 ("FEIS") (December 2001).

3. I have reviewed the foregoing answers of the NRC Staff in response to Requests for Admission No. 6, and Interrogatory No. 4 in the "State of Utah's Nineteenth Set of Discovery Requests Directed to the NRC Staff," and verify that they are true and correct to the best of my knowledge, information and belief.

4. I hereby certify that the foregoing is true and correct to the best of my knowledge, information, and belief.

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Richard H. Kettle

Sworn to before me this  
13<sup>th</sup> day of February, 2002

Claire M. Chitwood

\_\_\_\_\_  
Notary Public

06/30/2004

My commission expires: \_\_\_\_\_

## Richard H. Ketelle

### EDUCATION

**M.S. in Geology**, University of Tennessee, Knoxville, 1977. Thesis Title: Characterization of the Mineral and Metal Content of Suspended Sediment, New River Basin, Tennessee.

**B.S. in Geology**, University of Tennessee, Knoxville, 1973.

### EXPERIENCE

**Engineering Specialist**  
Bechtel-Jacobs Corporation  
Oak Ridge, Tennessee

**March 2000 to Present**

Responsible for Water Quality Program at the Oak Ridge National Laboratory ("ORNL") site including planning and overseeing surface water and groundwater monitoring for the Environmental Monitoring ("EM") Program at ORNL. Provides technical support to remediation projects and procurement teams for the ORNL site. Provides technical assistance to ORNL Research Reactors Division on release of tritium contaminated process wastewater to groundwater at the High Flux Isotope Reactor site.

**Research Staff**  
Oak Ridge National Laboratory  
Oak Ridge, Tennessee

**1979-March 2000**

*Groundwater Manager*  
Oak Ridge National Laboratory (1996-2000)

Provided oversight of groundwater monitoring activities for ORNL. Assigned as technical lead for the Remedial Investigation Report preparation for the Melton Valley Watershed and participated in preparation of the Melton Valley Proposed Plan and Record of Decision. Also participated in public interactions of the End Use Working Group and the Stewardship Working Group sponsored by the Oak Ridge Reservation Site Specific Advisory Board.

*Group Leader, Applied Geology Group*  
Oak Ridge National Laboratory (1995-1996)

Led technical activities in groundwater investigations for the ORNL Environmental Restoration Program. Groundwater Coordinator for ORNL site.

*Research Staff Member*  
Oak Ridge National Laboratory (1993 - 1994)

Technical Lead for groundwater activities for ORNL Environmental Restoration. Lead hydrogeologic analyses for several remedial action projects at ORNL which

culminated in construction of groundwater collection and treatment facilities. Contributed to use of advanced groundwater models in risk assessment analyses for site remediation at ORNL.

*Research Associate, Applied Physical Sciences Group*  
Oak Ridge National Laboratory (1990-1992)

Directed activities of Applied Physical Sciences Group geologists in preparing report sections for the Gaseous Diffusion Plant Safety Analysis Report Upgrade Program. Participated in groundwater modeling task supporting the Performance Assessment for operating low-level waste disposal facilities in Solid Waste Storage Area 6 at ORNL. Directed site monitoring activities for the proposed future low-level waste sites at Oak Ridge. Advised ORNL Environmental Restoration staff on geologic and hydrogeologic considerations in risk assessment of ORNL facilities.

*Research Associate*  
Oak Ridge National Laboratory (1979-1989)

1985-1989: Responsible for geologic and hydrogeologic site characterization studies in DOE's Low-Level Waste Disposal Development and Demonstration Program and the ORNL Remedial Action Program Remedial Action Feasibility Study. Activities included characterization program task planning and performance using both subcontract personnel and ORNL staff. Planned and supervised construction of piezometers and water quality monitoring wells at the ORNL facilities for the purpose of basic site characterization, sampling of selected wells in a contaminant scoping survey, and performance of hydraulic testing in core holes to develop a large-scale understanding of the groundwater flow system at ORNL. Responsible for the performance of the first regional inventory of karst subsidence in East Tennessee.

1982-1985: Performed site characterization of two proposed low-level radioactive waste disposal sites and participated in pathways analyses for both sites. Work at the West Chestnut Ridge Site at Oak Ridge included characterization of thick residual soils, bedrock, and groundwater flow in the karst aquifer. Work at the Ohio site involved characterization of soil and bedrock conditions as well as performance of aquifer tests and participation in the site pathways analysis. Pathways analyses for both of these sites included groundwater contaminant transport analyses and estimation of potential radiological dose to. Participated in preparation of documents pertaining to appropriate techniques for shallow land burial of low level radioactive waste and remedial measures to stabilize shallow land burial facilities. Applied electromagnetic survey techniques to groundwater studies at several sites.

1979-1982: Performed analyses of potential impacts of large-scale synthetic fuel plant construction and operation and participated in preparation of NEPA documents for other DOE sponsored projects.

As a geologic consultant, performed coal exploration and reserve estimation on properties in Alabama, Kentucky, Tennessee, and West Virginia. Performed foundation and settlement investigations at several large construction sites.

**Field Assistant**

**1977**

U.S. Geological Survey  
Reston, Virginia

Participated in field geologic mapping and sampling for mineral resource assessment at areas proposed for designation as National Wilderness Areas in East Tennessee. Gained experience in geologic mapping in the metamorphic rock setting of the Blue Ridge Province of East Tennessee.

**REGISTRATION**

Registered Professional Geologist in the State of Tennessee No. 555

**OTHER TRAINING**

- 2000          Multi-Agency Radiation Survey and Site Investigation Manual training, Washington, D.C.
- 1993          Dynamic Graphics, Earthvision training course.
- 1990          Applied Groundwater Modeling, International Groundwater Modeling Center, Butler University, Indianapolis, Indiana.
- 1984          Geotechnical Applications of Borehole Geophysics, by Jeffrey Daniels.
- 1984          Project Management, Oak Ridge National Laboratory.
- 1983          Geotechnical Engineering for Waste Disposal Projects, University of Texas Short Course.
- 1981          Introductory Soil Mechanics, The University of Tennessee, One Quarter.
- 1978          Fundamentals of Grouting, University of Missouri Short Course.

## PUBLICATIONS

R.H. Ketelle and G.J. Davies, Hydrogeochemical Responses of Knox Group Springs to Precipitation at Oak Ridge Tennessee. GSA Abstracts with Programs Vo. 31 No. 7 p. 331 October 1999.

J. C. Wang, D. W. Lee, R. H. Ketelle, R. R. Lee, D. C. Kocher, Determining the Operating Limits for Radionuclides for a Proposed Landfill at Paducah Gaseous Diffusion Plant. in Transactions of the American Nuclear Society Vol. 71, 1994.

D. A. Wolf, M. F. Tardiff, R. H. Ketelle, Characterizing Groundwater at Oak Ridge National Laboratory Hazardous Waste Sites. in Proceedings of American Statistical Association for Section on Statistics and the Environment

R. R. Lee, R. H. Ketelle, J. M. Bownds, T. A. Rizk, Aquifer Analysis and Modeling in a Fractured, Heterogeneous Medium. Ground Water Vol. 30, Number 4. 1992.

R. H. Ketelle, R. R. Lee, J. M. Bownds, T. A. Rizk, Model Validation Lessons Learned: A Case Study at Oak Ridge National Laboratory, published in Proceedings of the Eleventh Annual DOE Low-Level Waste Management Conference by National Low Level Waste Management Program, Conf-890854-Vol. 1, p. PA26-PA39, November 1989.

R. R. Lee, R. H. Ketelle, J. M. Bownds, T. A. Rizk, Calibration of a Groundwater Flow and Contaminant Transport Computer Model: Progress Toward Model Validation. ORNL/TM-11294. September, 1989.

D. M. Borders, C. B. Sherwood, J. A. Watts, R. H. Ketelle, Hydrologic Data Summary for the White Oak Creek Watershed May 1987 - April 1988, ORNL/TM-10959, September 1989.

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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) )

AFFIDAVIT OF CHESTER POSLUSNY JR.

COUNTY OF MONTGOMERY )  
 ) SS:  
STATE OF MARYLAND )

Chester Poslusny Jr., having first been duly sworn, does hereby state as follows:

1. I am employed as a Senior Project Manager in the Spent Fuel Project Office ("SFPO"), Office of Nuclear Material Safety and Safeguards ("NMSS"), U.S. Nuclear Regulatory Commission ("NRC"), in Rockville, Maryland. A statement of my professional qualifications is attached hereto.

2. As part of my official responsibilities, I managed the review and evaluation of environmental impacts performed by the NRC Staff and its contractors related to the Independent Spent Fuel Storage Installation ("ISFSI") proposed by Private Fuel Storage L.L.C. ("PFS" or "Applicant"). In addition, I assisted in coordinating the preparation of the NRC Staff and cooperating Federal agencies' "Final 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 ("FEIS") (December 2001).

3. I have reviewed the foregoing answers of the NRC Staff in response to Requests for Admission Nos. 2 - 3 and 5, and Interrogatories Nos. 2 and 3 in the "State of Utah's Nineteenth Set of Discovery Requests Directed to the NRC Staff," and verify that they are true and correct to the best of my knowledge, information and belief.

4. I hereby certify that the foregoing is true and correct to the best of my knowledge, information, and belief.

***/RA/***

\_\_\_\_\_  
Chester Poslusny Jr.

Sworn to before me this  
9<sup>th</sup> day of February, 2002

Circe E. Martin

\_\_\_\_\_  
Notary Public

03/01/2003

My commission expires: \_\_\_\_\_

**Chester Poslusny, Jr.**  
Senior Project Manager  
Transportation and Storage Safety and Inspection Section  
Spent Fuel Project Office  
U.S. Nuclear Regulatory Commission (NRC)

**Education:**

M.S. Degree Management, Hood College, Frederick, MD, 1981  
M.A. Economics, Florida Atlantic University, Boca Raton, FL, 1974  
M.A. Mathematics, Florida Atlantic University, Boca Raton, FL, 1973  
A.A. Mathematics/Science, County College of Morris, Dover, N.J., 1971

**Qualifications:**

Mr. Poslusny has over 28 years experience at the NRC in the areas of environmental project management, public outreach coordination, rulemaking, operating reactor project management, licensing project management, technical assistance project management, contract management, allegation investigation and management, budget formulation and execution, and personnel management.

**Employment History and Selected Projects:**

***February 1999 through Present*** — Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards, NRC

In his project manager duties, Mr. Poslusny is responsible for coordinating and managing the technical progress of a multi-disciplinary team of individuals including NRC and contractor staff reviewing the Environmental Report submitted to the NRC for the Independent Spent Fuel Storage Installation proposed by Private Fuel Storage L.L.C. and related documents and information. Over a period of almost one year, Mr. Poslusny directed the team efforts in the completion of the Final Environmental Impact Statement for the proposed facility and supported hearing related activities.

Mr Poslusny coordinated staff efforts to reduce regulatory burden for applicants and licensees. Specifically, he managed a staff team review of a proposed set of standardized technical specifications for dry storage cask designs and reviewed industry guidance that were endorsed by the agency for implementing new regulations for a design change process under 10 CFR 72.48.

Mr. Poslusny routinely represents the agency in public outreach meetings throughout the country. He promotes improved stakeholder understanding of NRC and Department of Transportation regulations dealing with the transportation of spent nuclear fuel. He has met with citizens concerned with the proposed storage site at Yucca Mountain, with Native American organizations with interest in the transportation and storage of spent nuclear fuel and has effectively provided information about the NRC's role in the regulation of such activities.

***August 1994 to February 1999*** — Office of Nuclear Reactor Regulation

As senior project manager, Mr. Poslusny managed the safety and environmental review of applications for license amendments, technical specification changes, responses to NRC generic letters and bulletins, and other licensing activities for the Washington Nuclear Power Plant-2 located in Richland Washington, and for the Susquehanna Steam Electric Station, Units 1 and 2

, located in Berwick, Pennsylvania. Other activities included serving as a member of routine and special team inspections, participating as a member on enforcement panels, and supporting the investigation of allegations.

**November 1990 to August 1994** — Office of Nuclear Reactor Regulation

As project manager for the Advanced Boiling Water Reactor (ABWR) review, Mr. Poslusny directed and managed the technical review of the General Electric Company's (GE) Standard Safety Analysis Report for the standardized design. This intensive review effort focused on the closeout of over 1000 open issues with the issuance of a final safety evaluation report (SER), and addressed a number of new review areas outside the Standard Review Plan, including severe accidents and probabilistic risk assessments. Mr. Poslusny prepared numerous chapters of the draft SER and the draft Final SER, and coordinated the staff's efforts in reaching sound regulatory positions. The final SER resulted in the issuance of a Final Design Approval for the standard ABWR design in a rulemaking proceeding.

**November 1988 to November 1990** — Office of Nuclear Reactor Regulation

As project manager, Mr. Poslusny was responsible for managing all aspects of the safety and environmental review of applications for license amendments and responses to NRC generic letters and bulletins for the Arkansas Nuclear One, Unit 2 plant.

**December 1979 to November 1988** — Office of Nuclear Reactor Regulation

During this period, Mr. Poslusny worked in the following organizations: Technical Assistance Management Branch, the Comanche Peak Project Office, the Division of Engineering, the Clinch River Breeder Reactor Program Office, Program Planning and Analysis Staff, and the Division of Site Safety and Environmental Analysis Branch. Responsibilities included managing large and complex contracts with private sector engineering organizations and with Department of Energy national laboratories; managing the efforts of a team to investigate and resolve safety allegations; and developing, justifying and implementing budgets for division and office level organizations.

**July 1974 to December 1979** —Office of Inspection and Enforcement

As program analyst, Mr. Poslusny prepared budget packages for major inspection programs, developed and issued management information system reports to reflect regional and headquarters performance against established goals, and conducted routine and special studies and audits to identify areas for improvement in the inspection programs.

**December 1965 to February 1969** —United States Air Force Security Service

As a voice intercept processing specialist, Mr. Poslusny was involved in intercepting, translating, and analyzing communications and intelligence information.

**NRC Awards:**

NRC Distinguished Meritorious Service Award: 1994  
High Quality Performance Awards: 1985, 1987, 1991,1998  
Suggestion Award: 1986  
Performance Awards: 1996,1999, 2000, 2001

**NRC Training Courses:**

Inspector Certification for Combustion Engineering Reactor Power Plants, NRC, 1989  
Combustion Engineering Advanced Reactor Technology, NRC Technical Training Center, 1989  
Combustion Engineering Reactor Technology, NRC Technical Training Center, 1989  
Fundamentals of Inspection, NRC Technical Training Center, 1981

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) )

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S OBJECTIONS AND RESPONSES TO THE 'STATE OF UTAH'S NINETEENTH 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 13th day of February, 2002:

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