

February 15, 2002 (10:54AM)

UNITED STATES OF AMERICA  
BEFORE THE  
NUCLEAR REGULATORY COMMISSION

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

Private Fuel Storage, a Limited Liability  
Company;

Docket No. 72-22

(Independent Spent Fuel Storage  
Installation).

ASLBP No. 97-732-02-ISFSI

January 29, 2002

**SOUTHERN UTAH WILDERNESS ALLIANCE'S (SUWA) FIRST SET OF  
DISCOVERY REQUESTS DIRECTED TO THE NRC STAFF**

Pursuant to orders issued by the Atomic Safety and Licensing Board (the Board) and Nuclear Regulatory Commission (NRC) regulations, intervenor Southern Utah Wilderness Alliance (SUWA) hereby requests that the staff of the Nuclear Regulatory Commission ("Staff") answer the following Interrogatories and Requests for Admission separately, fully, in writing, and under oath within 10 days after service of this discovery request, and produce documents requested below within 15 days after service of this request. All of these discovery requests are necessary to a proper analysis of and decision in contention SUWA B.

As required by 10 CFR § 2.744(a), this discovery request is being served on the NRC Executive Director for Operations.

**INTRODUCTION**

1. Scope of Discovery: These interrogatories, admission requests, and requests for production of documents are directed to the Staff and any of the Staff's contractors or

agents (collectively "NRC" or "Staff"). These interrogatories and requests for production of documents cover all information in the possession, custody and control of the Staff, including information in the possession of officers, employees, agents, servants, representatives, attorneys, or other persons directly or indirectly employed or retained by the Staff, or anyone else acting on their behalf or otherwise subject to the Staff's control.

2. Lack of Information: If you currently lack information to answer any interrogatory completely, please state:

- a. The responsive information currently available;
- b. The responsive information currently unavailable;
- c. Efforts which you intend to make to secure the information currently unavailable; and
- d. When you anticipate receiving the information currently unavailable.

3. Supplemental Responses: Each of the following requests is deemed continuing in nature pursuant to 10 C.F.R. § 2.740(e). Therefore, in the event that the Staff subsequently obtains or discovers any additional information that is responsive to these interrogatories and requests for production of documents, the Staff shall supplement its responses to this request promptly and well in advance of the adjudicatory hearing.

Such supplementation shall include, but not be limited to:

- a. the identity and location of persons having knowledge of discoverable matters;
- b. the identity of each person expected to be called as an expert witness at any

hearing, the subject matter on which she/he is expected to testify, and the substance of her/his testimony; and,

c. new information which makes any response hereto incorrect.

4. Objections: If you object to or refuse to answer any interrogatory for any other reason, please indicate the basis for asserting the objection, privilege, immunity, or other reason, the person on whose behalf the objection, privilege, immunity, or other reason is asserted, and describe the factual basis for asserting the objection, privilege, immunity, or other reason in sufficient detail so as to permit the administrative judges in this matter to assess the validity of such assertion.

If the Staff withholds any document covered by this request for any reason, please furnish a list identifying each document for which the privilege, immunity, or other reason is asserted, together with the following information: date, author and affiliation, recipient and affiliation, persons to whom copies were furnished and the job title and affiliation of any such persons, the subject matter of the documents, the basis for asserting the privilege, immunity, or other reason, and the name of the person on whose behalf the privilege, immunity, or other reason is asserted.

## **DEFINITIONS**

Each of the following definitions, unless otherwise indicated, applies to and shall be a part of each interrogatory, request for production of documents, and request for admission that follows:

A. "NRC," "Staff," "you," and "yours" refers to the officers, employees, agents, servants, representatives, attorneys, or other persons directly or indirectly employed or retained by the Staff of the U.S. Nuclear Regulatory Commission, or anyone else acting on its behalf or otherwise subject to the Staff's control.

B. "PFS" or "Applicant" refers to Private Fuel Storage, LLC and the PFS members and their officers, employees, agents, servants, representatives, attorneys, or other persons directly or indirectly employed or retained by them, or anyone else acting on their behalf or otherwise subject to their control.

C. The term "documents" means the originals as well as copies of all written, electronically stored, printed, typed, recorded, graphic, photographic, and sound reproduction no matter how produced or reproduced and wherever located, over which you have custody or control or over which you have the ultimate right to custody or control. By way of illustration, but not limited thereto, said term includes: records, correspondence, telegrams, telexes, wiring instructions, diaries, notes, interoffice and intraoffice communications, minutes of meetings, instructions, reports, demands, memoranda, data, schedules, notices, recordings, analyses, sketches, manuals, brochures, telephone minutes, calendars, accounting ledgers, invoices, charts, working papers, computer tapes, computer printout sheets, information stored in computers or other data storage or processing equipment, microfilm, microfiche, corporate minutes, blueprints, drawings, contracts and any other agreements, rough drafts, and all other writings and papers similar to any of the foregoing, however designated by you. If the document has been prepared and several copies or additional copies have been made that are not identical (or are no longer

identical by reason of the subsequent addition of notations or other modifications), each non-identical copy is to be construed as a separate document.

D. The words “describe” or “identify” shall have the following meanings:

1. In connection with a person, the words “describe” or “identify” mean to state the name, last known home and business address, last known home and business telephone number, and last known place of employment and job title;

2. In connection with a document, the words “describe” or “identify” mean to give a description of each document sufficient to uniquely identify it among all of the documents related to this matter, including, but not limited to, the name of the author of the document, the date, title, caption, or other style by which the document is headed, the name of each person and entity which is a signatory to the document, the date on which the document was prepared, signed, and/or executed, any relevant bates numbers on the document, 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, the present custodian of the document, and any other information necessary to adequately identify the document.

3. In connection with an entity other than a natural person (e.g., corporation, partnership, limited partnership, association, institution, etc.), the words “describe” or “identify” mean to state the full name, address and telephone number of the principal place of business of such entity.

4. In connection with any activity, occurrence, or communication, the words “describe” or

“identify” mean to describe the activity, occurrence, or communication, the date of its occurrence, the identify 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.

E. “Date” shall mean the exact day, month, and year, if ascertainable, or if not, the best approximation thereof (including by relationship to other events), and the basis for such approximation.

F. “ISFSI” shall mean the PFS proposed Independent Spent Fuel Storage Installation located in the northwest corner of the Skull Valley Goshute Indian reservation, Utah.

G. The word “person” shall include any individual, association, corporation, partnership, joint venture, or any other business or legal entity.

H. “FEIS” shall refer to the document entitled “Final Environmental Impact Statement for the Construction and Operation of an Independent Spent Fuel Storage Installation on the Reservation of the Skull Valley Band of Goshute Indians and Related Transportation Facility in Tooele County, Utah,” dated December 2001.

The discovery sought by this request encompasses material contained in, or which might be derived or ascertained from, the personal files of NRC Staff employees, representatives, investigators, and agents.

## **INTERROGATORIES**

INTERROGATORY NO. 1: Please list and describe in detail all local transportation

alternatives (in Skull Valley) that were considered by the Staff in any way for the purpose of transporting casks to the proposed ISFSI storage site. Please describe all rail or road alignments considered, as well as any variations in the project design elements of any of the various alignments such as fire buffers, access roads, footprint of the right-of-way, changes in vegetation treatments, and/or mitigation measures.

INTERROGATORY NO.2: Please describe in detail your conclusions regarding each of these alternatives. Where the Staff has relied upon information provided, or evaluations or judgments made by PFS, please explain, in detail, if and in what manner the Staff has undertaken independent evaluation and review of this information, or these evaluations or judgments.

INTERROGATORY NO. 3: Please describe in detail any and all analyses, review, or processes used in evaluating each of these alternatives, and used in coming to any conclusions regarding these alternatives. Please include in your answer a description of the person(s) who undertook these analyses, the date of such analyses, and what information this individual or these individuals relied upon in undertaking these analyses. Where the Staff has relied upon information provided, or evaluations or judgments made by PFS, please explain, in detail, if and in what manner the Staff has undertaken independent evaluation and review of this information, or these evaluations or judgments.

INTERROGATORY NO. 4: Please describe in detail each of the factors that the Staff considered when evaluating each of these local transportation alternatives in Skull Valley as they relate to the wilderness, roadless and/or primitive character of lands in the North Cedar Mountains area, as well as the way in which these factors were considered and how these

considerations were related to the Staff's overall analysis of, and conclusions regarding, each of these alternatives. Where the Staff has relied upon information provided, or evaluations or judgments made by PFS, please explain, in detail, if and in what manner the Staff has undertaken independent evaluation and review of this information, or these evaluations or judgments.

INTERROGATORY NO. 5: The FEIS states that "routes farther to the east of the alternative route would fall on State land, which PFS has stated would be in conflict with the selection and design criteria for their proposed rail route." (FEIS at 2-49). Please describe with specificity any review, analysis, and conclusions conducted or reached by the Staff regarding PFS's rail selection and design criteria and/or the appropriateness of this selection and design criteria with respect to crossing State land. Please include in your response if and how the Staff independently evaluated the notion that local transportation alternatives in Skull Valley that pass through or over lands owned or managed by the State of Utah and/or the School Institutional Trusts Lands Administration (SITLA), were not reasonable alternatives, and describe any and all attempts made by the Staff (or made by PFS and relied on by the Staff) to contact the State or SITLA regarding the potential to run a rail alignment through, purchase, or otherwise secure a right-of-way over SITLA-managed lands in Skull Valley, or consider such options.

INTERROGATORY NO. 6: Please describe in detail any review, analysis, and conclusions undertaken or reached by the Staff regarding the natural state of the North Cedar Mountains area, including describing the person(s) who made this analysis, and when and on what basis this analysis was made. Where the Staff has relied upon information provided, or evaluations or judgments made by PFS, please explain, in detail, if and in what manner the Staff

has undertaken independent evaluation and review of this information, or these evaluations or judgments.

INTERROGATORY NO. 7: Please describe in detail any review, analyses, and conclusions undertaken or reached by the Staff, regarding any wetlands or mudflats near the southern portion of the North Cedar Mountains area which were purportedly avoided by the West Skull Valley Alternative. Where the Staff has relied upon information provided, or evaluations or judgments made by PFS, please explain, in detail, if and in what manner the Staff has undertaken independent evaluation and review of this information, or these evaluations or judgments.

INTERROGATORY NO. 8: Please describe in detail any review, analyses, and conclusions undertaken or reached by the Staff regarding the amount and location of fill needed for the construction of the West Skull Valley Alternative and regarding the environmental and other impacts of such fill. Where the Staff has relied upon information provided, or evaluations or judgments made by PFS, please explain, in detail, if and in what manner the Staff has undertaken independent evaluation and review of this information, or these evaluations or judgments.

INTERROGATORY NO. 9: Please describe in detail any review, analyses, and conclusions undertaken or reached by the Staff regarding alignment alternatives in Skull Valley that were not proposed or presented by PFS. Where the Staff has relied upon information provided, or evaluations or judgments made by PFS, please explain, in detail, if and in what manner the Staff has undertaken independent evaluation and review of this information, or these

evaluations or judgments.

INTERROGATORY NO. 10: Please describe in detail any review, analyses, and conclusions undertaken or reached by the Staff regarding whether Congress will declare the North Cedar Mountains area as a Wilderness pursuant to the Wilderness Act of 1964. Where the Staff has relied upon information provided, or evaluations or judgments made by PFS, please explain, in detail, if and in what manner the Staff has undertaken independent evaluation and review of this information, or these evaluations or judgments.

## **DOCUMENT REQUESTS**

SUWA requests that the Staff produce the following documents directly or indirectly within its possession, custody or control:

REQUEST NO 1: All documents that are identified, referred to, or used in any way in responding to any of the above interrogatories.

REQUEST NO. 2: All documents pertaining to contention SUWA B.

REQUEST NO. 3: All documents (including experts' opinions, workpapers, affidavits, and other materials used to render such opinion) supporting or otherwise relating to testimony or evidence that you intend to use or rely upon at the hearing on contention SUWA B.

REQUEST NO. 4: All documents that pertain to and/or were relied upon to prepare Chapter 2, Sections 2.1.1.3 and 2.2.4.2 FEIS, including documents that substantiate the following claims made in that document: 1) the West Skull Valley Alternative would have to be built almost entirely on fill materials and would have to be built to elevations up to six meters above existing

grade (2-49); 2) that this raised rail bed would result in visual impacts, interference with access to roads and grazing allotments, wildlife movement, and the fighting of wildfires (2-49).

REQUEST NO. 5: All documents pertaining to the Staff's evaluation of, response to, or research regarding PFS's assertion that any transportation alignments in Skull Valley that cross State lands would not be credible and/or reasonable.

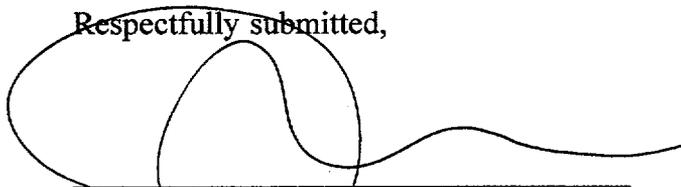
### REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO.1: Do you admit that you did not apply to the State of Utah or SITLA for a right-of-way to cross State land in conjunction with the proposed ISFSI?

REQUEST FOR ADMISSION NO.2: Do you admit that you made no inquiries regarding or attempts to purchase State land in conjunction with the proposed ISFSI?

DATED this 29<sup>th</sup> day of January, 2002.

Respectfully submitted,

A large, stylized handwritten signature in black ink, consisting of several loops and a long horizontal tail extending to the right.

JORO WALKER  
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January 29, 2001

UNITED STATES OF AMERICA  
BEFORE THE  
NUCLEAR REGULATORY COMMISSION

Private Fuel Storage, a Limited Liability  
Company;

(Independent Spent Fuel Storage  
Installation).

Docket No. 72-22  
ASLBP No. 97-732-02-  
ISFSI

**CERTIFICATE OF SERVICE**

I hereby certify that Southern Utah Wilderness Alliance's First Set of Discovery Request Directed to the NRC Staff was served on: William D. Travers, Executive Director for Operations, US Nuclear Regulatory Commission, Washington, DC 20555.

I hereby certify that I served copies of this same document on the persons listed below (unless otherwise noted) by e-mail with conforming copies by U.S. mail, first class, postage prepaid, this January 29, 2002.

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\* Adjudicatory File  
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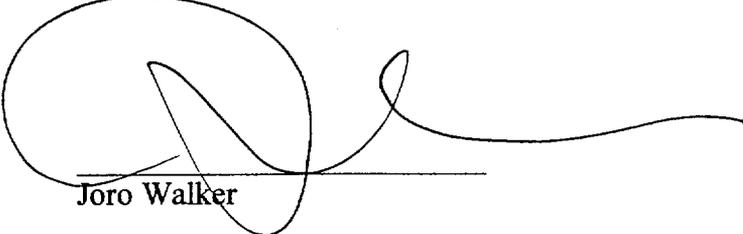
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