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## NUCLEAR REGULATORY COMMISSION

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Title: Private Fuel Storage, LLC  
Limited Appearance Session

Docket Number: 72-22-ISFSI; ASLBP No. 97-732-02-ISFSI

Location: Salt Lake City, Utah

Date: Monday, April 8, 2002

Work Order No.: NRC-281

Pages 1-267

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SECY-02

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of: )  
PRIVATE FUEL STORAGE, LLC, ) Docket No. 72-22  
(Independent Spent Fuel ) ASLBP No.  
Storage Installation) ) 97-732-02-ISFSI  
)

U. S. Nuclear Regulatory Commission  
Utah State Capitol  
Salt Lake City, Utah 84114

Oral Limited Appearance Statement Session

On Monday, April 8 , 2002 the above-entitled matter came on for hearing, pursuant to notice, before:

MICHAEL C. FARRAR, CHAIRMAN  
Administrative Judge  
U. S. Nuclear Regulatory Commission

DR. JERRY R. KLINE  
Administrative Judge  
Atomic Safety & Licensing Board Panel

DR. PETER S. LAM  
Administrative Judge  
Atomic Safety & Licensing Board Panel

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1           Monday, April 8, 2002

2           2:00 p.m.

3           P R O C E E D I N G S

4

5           JUDGE FARRAR: If you could all take

6        your seats, we'll get started. Those of you who

7        were here this morning at nine o'clock know that we

8        began the preliminary stages of the evidentiary

9        hearing for the full-scale trial on the merits that

10      we are having on several safety and environmental

11      issues relating to the requests of an organization

12      called Private Fuel Storage for Nuclear Regulatory

13      Commission approval of a proposal to build on the

14      reservation of the Skull Valley band of the Goshute

15      Indians, a facility for the temporary storage of

16      spent fuel from nuclear power plants.

17           We, up here, are administrative judges

18        appointed by the Commissioners of the NRC and

19        designated to sit in this case. Recognizing these

20        are complex proceedings, long ago Congress

21        provided, in the Atomic Energy Act, that we would

22        have three-person boards consisting of two

23        technical members, my colleagues Dr. Jerry Kline,

24        an environmental scientist, and Dr. Peter Lam, a

25        nuclear engineer, with a lawyer chairman, that's

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1 me. I'm Mike Farrar.

2 Paul Bollwerk is also with us. Those of  
3 you who were here a couple years ago recall that at  
4 that point he was the chairman of the board. We  
5 now have, for work load allocation purposes, two  
6 boards. He chairs one of them and I chair the  
7 other. He still has some issues left that his  
8 board is working on.

9 This morning we had about an hour and a  
10 half of very eloquent opening statements by counsel  
11 for the different parties stating their position on  
12 the issues and why they were here and what their  
13 role was. We then had about an hour and a half of  
14 arguments, discussion with the lawyers on some  
15 motions that have been filed relating to what  
16 evidence would come in at the hearings starting  
17 tomorrow on the issue of what we call credible  
18 accidents; that is, the potential risk from the  
19 military operations in the West Desert.

20 So we are now here for a different  
21 purpose, which is the public. Instead of the  
22 parties and the lawyers and witnesses, which we  
23 will be doing for six weeks here in Salt Lake City,  
24 this is the chance for the public here to say its  
25 piece. I might suggest -- well, let's have counsel

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1 identify themselves. We had four counsel here this  
2 morning. We have a big hearing starting tomorrow  
3 and they all had to go back and work with their  
4 witnesses. So if counsel would just, who are here,  
5 would identify themselves.

6 MR. SILBERG: Thank you, Mr. Chairman.

7 I'm Jay Silberg with the Washington law firm Shaw  
8 Pittman. We are representing the Applicant,  
9 Private Fuel Storage, in this NRC proceeding.  
10 Sitting with me at counsel table is John Donnell,  
11 who is the project director for Private Fuel  
12 Storage.

13 MR. WISEMAN: I'm Robert Wiseman,  
14 representing the NRC staff.

15 MS. CHANCELLOR: I'm Denise Chancellor  
16 from the Utah Attorney General's office,  
17 representing the state of Utah.

18 JUDGE FARRAR: If Counsel wants to scoot  
19 their chairs around to look at the speaker, we  
20 won't be insulted up here. I just want to make a  
21 couple things clear at the beginning. Mr. Wiseman  
22 introduced himself as with the NRC staff. That is  
23 not our staff. We work with the Commissioners. We  
24 are independent. We are hired to hear the  
25 evidence, apply the law, write decisions.

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1                   Mr. Wiseman's clients are a whole group  
2                   of regulators at the NRC who view proposals from  
3                   companies like Private Fuel Storage, and we have no  
4                   relationship with them other than occurs in this  
5                   room. So that's the independence we bring to it.

6                   Limited appearance statements, as you  
7                   probably know, are not evidence in the case. They  
8                   are not something on which we can base a decision.  
9                   But what frequently happens is that counsel and the  
10                  parties hear things you say and they can tailor  
11                  their presentations to respond to the concerns you  
12                  have. And if your concerns are germane to the  
13                  several issues that are pending in front of us, we  
14                  can certainly ask the witnesses questions and make  
15                  sure those are addressed. This is not, however, a  
16                  public hearing or a dialogue. We will be listening  
17                  intently to your statements but it will not be a  
18                  give-and-take situation.

19                  If you, when you leave -- you had  
20                  security, of course, coming in. These days that's  
21                  for your protection and ours. When you go out,  
22                  please go out the two side doors in the back wall  
23                  and come back in through security, if you need to.  
24                  We have another session tonight from 7:00 to 9:30.  
25                  We are expecting perhaps a larger crowd. With no

1 further ado, the first person to sign up was,  
2 believe it or not, Congressman Matheson. And we  
3 welcome his presentation.

4 CONGRESSMAN MATHESON: Thank you. Can  
5 you hear me all right? Do I need to turn this on?  
6 There we go. All right. I appreciate you giving  
7 us the opportunity to appear before you today.  
8 There's a brief statement I'd like to share with  
9 you. First a bit of history.

10 On May 19, 1953, the federal Atomic  
11 Energy Commission detonated a 32-kiloton bomb,  
12 nicknamed "Dirty Harry", at the Nevada test site.  
13 Fallout began hitting St. George at 8:30 that  
14 morning. Instruments monitored by AEC employees in  
15 Washington County went off the dial, indicating  
16 exposure greater than 300 milliroentgens per hour.  
17 The only warning given that day was an announcement  
18 on a Cedar City radio station, which is a town 40  
19 miles north of St. George, that people should go  
20 inside and wash their cars. That announcement came  
21 at 10:15 a.m.

22 Ninety-three atom bombs were detonated  
23 in the Nevada desert between 1951 and 1963, with  
24 nearly one-third bigger than the bomb dropped on  
25 Hiroshima. Now, the West was chosen because as

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1 long as winds are blowing east, the fallout avoided  
2 big cities and traveled over sparsely populated  
3 Nevada and Utah towns.

4                   The federal government told us we were  
5 safe. And, in fact, the federal government knew we  
6 were at risk. The fallout fell on people's skin  
7 and dusted alfalfa hay where it was eaten by dairy  
8 cows and concentrated in milk consumed by school  
9 children. The toxic dust rained down on sheep and  
10 burned holes in their fleece. Children under 19 in  
11 1953 in Washington County, the county where St.  
12 George is located, would have a sevenfold increase  
13 in deaths from acute leukemia.

14                   In 1997, the National Cancer Institute  
15 released a report on the exposure of the U.S.  
16 population to radioactive iodine from the Nevada  
17 test site. It was estimated that this exposure  
18 might account for between 12,000 and 55,000 extra  
19 cases of thyroid cancer in the United States. Five  
20 decades later, Utahans are still paying dearly, in  
21 the form of death and disease, for trusting their  
22 federal government's pronouncements on radiation.

23                   And that brings us to today. Unanswered  
24 questions. That is the primary cause for Utahans'  
25 concern with this proposal. The NRC has received a

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1           detailed and exhaustive response from the state of  
2       Utah at each step of the licensing process. I  
3       concur with the seven specific and significant  
4       risks outlined and substantiated in administrative  
5       and legal documents that make up the record in this  
6       case. The licensing of a nuclear waste repository  
7       is a matter of federal law, which is why I am here  
8       today.

9                          As the proposal to license the Private  
10      Fuel Storage facility on the Goshute Indian  
11      Reservation has progressed, we still do not have  
12      answers to our questions; not from the Nuclear  
13      Regulatory Commission, not from the Environmental  
14      Impact Statement, not from the Bureau of Indian  
15      Affairs, and not from the corporate interests  
16      seeking to store 40,000 metric tons of some of the  
17      most radioactive toxic waste on the planet, where  
18      it will remain for at least 10,000 years.

19                          Why has the Nuclear Regulatory  
20      Commission refused to address safety concerns about  
21      the transportation of this deadly cargo? More than  
22      80 percent of Utahans will live, work, and travel  
23      along the high level nuclear waste transportation  
24      routes, yet we have seen nothing but a generic  
25      discussion about transportation from a 1976 study.

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1        You are asking us to rely on information that is  
2        more than 25 years old.

3              Even now, the executive branch of the  
4        federal government has endorsed Yucca Mountain,  
5        Nevada as a permanent site for America's nuclear  
6        waste. Why should Utahans double the risk of  
7        transporting the waste; once when you ship it here  
8        to Skull Valley, and again when you send it from  
9        Utah on its way to the Yucca Mountain site? Utah  
10      produces not one ounce of this waste, but our  
11      safety concerns about transporting it are not  
12      addressed. Why wouldn't the government place  
13      greater emphasis on a no-action alternative in its  
14      environmental impact statement? There is no  
15      compelling reason to move any spent fuel from where  
16      it sits now. Our question is, what is the rush to  
17      do something right now?

18              On September 11, we were horrified to  
19      watch three airplanes crash into buildings that  
20      were the targets of terrorists. The designers of  
21      the World Trade Center never dreamed a fire that  
22      hot would melt the steel supporting the structures,  
23      but we all have to think the unthinkable in the  
24      aftermath of the tragedy that claimed nearly 3000  
25      Americans. Why not the nuclear industry? And why

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1       not the nuclear licensing process? Why hasn't the  
2       NRC addressed our questions about a potential  
3       terrorist risk not only to the site but to the  
4       railroad cars and trucks hauling the waste clear  
5       across this country, or when the cars carrying it  
6       sit on railroad sidings somewhere? Why won't the  
7       NRC require Private Fuel Storage to demonstrate  
8       that it will be able to obtain sufficient funds to  
9       build, operate, and safeguard the site from  
10      terrorism?

11                  There have been numerous questions  
12       raised about the financial affairs of the Goshute  
13       Tribe. There are lawsuits pending in the court  
14       over who is the authority. The NRC is responsible  
15       for oversight of environmental justice for tribal  
16       members that do not want their impoverished  
17       reservation to be a toxic waste site. But there  
18       are questions NRC refuses to answer regarding the  
19       release of financial records.

20                  Fifty years later, the citizens of Utah  
21       are still asking why; why their own government  
22       lied, why it put them in harm's way, why they still  
23       go to funerals, why they were told to build bomb  
24       shelters to protect them from Russians when their  
25       own government was bombing them from 130 miles

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1 away.

2                   Where we sit is 45 miles away from where  
3 you may decide should house the most deadly waste  
4 for decades to come. Don't we at least deserve  
5 answers to questions about our health and safety,  
6 if you can come up with them?

7                   I appreciate the time of your committee.

8                   JUDGE FARRAR: Councilman, appreciate  
9 you being here. Thank you very much.

10                  What we will do is I will name the next  
11 speaker and then the person who will be after that  
12 so you know what your sequence is. The next would  
13 be a Jerry Johnson. Is he here? And then Stephen  
14 Varos.

15                  Is Mr. Varos here? The person after  
16 that would be Bill Peterson. Gary Sandquist?  
17 Well, Amy Hines? I'm running out of names here.

18                  Mr. Johnson, rather than have you stand  
19 there while I find somebody, go ahead and start, if  
20 you would.

21                  MR. JOHNSON: My name is Jerry Johnson.  
22 I am from Spanish Fork, Utah. I'm very concerned  
23 about this proposal that is happening. I live a  
24 half mile from the railroad track that will be  
25 carrying at least 30 percent of this nuclear waste

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1 through Spanish Fork Canyon, with grade schools  
2 within a half mile of that railroad track. I have  
3 exhibits. Is it appropriate that I hand these to  
4 you gentlemen? Because I'd like for you to have  
5 copies and I'd like for them to be entered into or  
6 as a record, as an exhibit to this proceeding.

7 JUDGE FARRAR: If you would give them  
8 to -- Michelle, would you get those, please.

9 MR. JOHNSON: There's nine copies. I  
10 hope that is sufficient.

11 JUDGE FARRAR: That would be fine.

12 MR. JOHNSON: Was that Congressman  
13 Matheson? I'd like to take 30 seconds more, if I  
14 can.

15 JUDGE FARRAR: You certainly may.

16 MR. JOHNSON: And I wasn't going to  
17 mention this but since he led into this I have to  
18 mention this. I was an adolescent in southern  
19 Idaho in the early '50s. That fallout came into  
20 southern Idaho. To this day, I'm still having skin  
21 cancers dug out of me, burned off of me. I had a  
22 big one just the other day up here on my arm that  
23 came from that fallout. My wife takes deadly --  
24 I'm sorry. My wife takes daily medication for  
25 thyroid problems that we suspect came from that

1 fallout. Why do we have to go through this again?  
2  
3 I'd like to introduce three items as  
4 exhibits in these public hearings concerning  
5 storage of high level nuclear waste on the Skull  
6 Valley Goshutes Indian reservation. These items  
7 reflect my and other citizens' opinions, feelings,  
8 and views on how dangerous and wrong it is to  
9 proceed with this high level nuclear waste  
10 transporting and storage project. The front page  
11 of that will identify the three items. I know my  
12 time is short, but I'd like to read item number  
13 one. And the other two items you gentlemen can  
14 read at your leisure, and I'd really appreciate it  
if you would.

15 JUDGE FARRAR: Okay. I don't want to --  
16 just hold up item one.

17 MR. JOHNSON: Maybe item one should be  
18 my cover page. Maybe there's four items.

19 JUDGE FARRAR: And that's what you want  
20 to read from?

21 MR. JOHNSON: No. I want to read from  
22 item two. I have already read item one.

23 JUDGE FARRAR: What I'm thinking is  
24 that's going to take a long time to read.

25 MR. JOHNSON: Hopefully I can get

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1 through it in three minutes, front and back. I'll  
2 try.

JUDGE FARRAR: Okay.

4 MR. JOHNSON: I mean --

5 JUDGE FARRAR: The only thing I was  
6 thinking about is we have other people waiting.

7 MR. JOHNSON: Okay. I will hurry.

8 JUDGE FARRAR: Let's see how long it  
9 goes.

10 MR. JOHNSON: Cut me off if I go over.

11 JUDGE FARRAR: Okay. Thank you. You  
12 people out here are much more polite than people  
13 back in Washington. I appreciate that.

19 JUDGE FARRAR: We will read it.

20 MR. JOHNSON: I would appreciate it. I  
21 think I have personally sent you one before.

22                   Item four will be a collection of some  
23                   of the things from the newspapers and newspaper  
24                   articles that I have read that shows opposition to  
25                   this program.

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1                   Dear Atomic Safety and Licensing Board,  
2  
3                   I thank you for the opportunity to say a few words  
4                   in opposition to the dangerous and tragic high  
5                   level nuclear waste transporting and storage ploy  
6                   that is being perpetrated and pushed upon an  
7                   innocent and unsuspecting populace. High level  
8                   nuclear waste is very explosive and radiates deadly  
9  
10                  radioactive waste and particles.

11                  I want to thank your board or whatever  
12                  federal board it was that recently ruled that the  
13                  Goshutes must reveal the contract revenues and  
14                  future revenues that have been spent on or will be  
15                  spent for. To me, this shows that the Federal  
16                  government is beginning to suspect, as I have from  
17                  the very beginning, that this contract may be  
18                  faulty and illegal. It appears to have an Enron  
19                  flavor to it. Revenues, I think, have been used to  
20                  serve a selected few better than others. I have  
21                  asked the U.S. Justice Department to look into this  
22                  for me but have been ignored. I feel we citizens  
23                  are poorly served when we are ignored by the U.S.  
24                  Justice Department. Please, if you have any  
25                  contact with them, walk across the street and ask  
                     them to please honor or at least answer my request.

26                  I must address up front the terrorist

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1 aspect of this ludicrous and dangerous high level  
2 nuclear waste transporting and storage plot. We  
3 have seen the mentality of these terrorists, but I  
4 don't think our governments have fully realized the  
5 terrorist capabilities. We constantly hear from  
6 the atomic waste transporting and storage  
7 proponents that the nuclear waste is adequately  
8 protected by steel and concrete. I must ask, did  
9 they see what the terrorists did to the steel and  
10 concrete in the World Trade Center Towers and  
11 surrounding areas? Not a pretty sight. A train  
12 locomotive fills with how many thousands of gallons  
13 of highly explosive diesel fuel (approximately the  
14 same fuel in the jet airliners) speeding along a  
15 track pulling tons of nuclear waste could be  
16 pulverized in a matter of minutes with as little as  
17 a road flare dropped in the fuel tanks. A scary  
18 thought: One of those locomotives is going to be  
19 used at the Skull Valley storage site within yards  
20 of 40,000 tons of highly explosive nuclear waste.  
21 A terrorist attack or even a simple accident could  
22 turn the Great Basin into a sheet of glass. How  
23 about taking out a few rail spikes over the  
24 Mississippi River, causing the derailment in the  
25 river? A thousand miles of vital river and water,

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1       polluted forever with nuclear waste. PFS is going  
2       to make it easy for the terrorist. These nuclear  
3       waste shipments are going to be dedicated and very  
4       easy to identify.

5                   I could go on with a hundred thoughts on  
6       how the terrorists would do it. They don't need my  
7       feeble mind to help them. They are more  
8       sophisticated and trained than I am. They are  
9       salivating at this very moment to pulverize those  
10      concrete and steel casks and radioactive solid  
11      pellets.

12                  We, the American people, through local  
13      citizen groups, are organizing and it won't be long  
14      until every city in this nation, be it Fairview,  
15      U.S.A. or New York City, will be informed of the  
16      danger of nuclear waste being transported through  
17      or near their communities. We will be asking every  
18      court in this land to issue restraining orders to  
19      halt this plan. We have and will continue to  
20      insist on funding from PFS, a limited liability  
21      corporation, the Goshutes Band of Indians, each  
22      nuclear waste producing company, the participating  
23      federal agencies and the federal government to be  
24      used for monitoring radioactivity, training,  
25      emergency equipment and compensation for injury,

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1       loss of life and property. Needless to say, every  
2       community will need such a fund. We are also  
3       asking that hearings like this be allowed and held  
4       in every community that nuclear waste is  
5       transported through. And this must be done. These  
6       people need to know what is going to happen to  
7       them.

8                   I have attached a six-page opposition  
9       letter that I'd like to read. But in lieu of that  
10      I want to quickly go on the other side and just  
11      present some problems with this plan. High level  
12      nuclear waste is highly explosive and radiates  
13      thick, deadly radioactive rays, regardless of how  
14      it is shielded.

15                  Regardless of PFS's promise not to  
16      transport nuclear waste through our neighborhoods,  
17      it will come within yards of thousands of homes.  
18      Remember, nuclear waste radiation is hardest on  
19      young children and the elderly.

20                  Our aged and worn out railroads and road  
21      systems are not worthy of this task. There have  
22      been massive rail and road wrecks. There will be  
23      road and rail wrecks involving high level nuclear  
24      waste. And just a point of information, just  
25      yesterday 50 miles from Washington, D.C. there was

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1       a big train derailment. Over 40,000 gallons of  
2       propane was derailed, and those roads are still not  
3       open yet. Right outside Washington, D.C. These  
4       railroads and our road transportation is not safe  
5       and is not worthy of this task.

6                   Spanish Fork Canyon is one of the most  
7       deadly transportation corridors in the nation.  
8                   Contrary to the SER, there have been massive land  
9       movements. And in the SER, PFS and you guys  
10      reviewing this said that there was no problem with  
11      land movement. The nearest place is Cedar City.  
12      Not too many years ago, Spanish Fork Canyon washed  
13      in, covering the railroad and causing or burying  
14      the city with a lake of water. That wasn't even  
15      mentioned, and that's where 30 to 40 percent of  
16      this nuclear waste is going to be coming through.  
17      Why wasn't that noted?

18                  The nuclear waste proponents know that  
19       excessive leaking radiating nuclear waste will be  
20       arriving in Skull Valley. The SER states when this  
21       happens, the excessive leaking nuclear waste will  
22       be sent back to its origin. We get radiated once  
23       coming in and radiated once going out. It doesn't,  
24       you know, make sense.

25                  There is not -- this is not an interim

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1       nuclear waste storage program. Once here, nuclear  
2       waste will never leave Utah.

3                 This is not an economic stimulus package  
4       for the Goshutes Indian Band. Every cent will be  
5       tied up in lawsuits for damage claims. Up front  
6       money will be required by every community for  
7       potential damage.

8                 The ecosystem will be permanently  
9       damaged with just the smallest high level nuclear  
10      waste accident.

11                Citizens do not want dangerous nuclear  
12      waste transported through their neighborhoods.

13                The proposed storage site is within many  
14      earthquake faults. One other little side line.  
15      Headlines in the paper just recently said Utah is  
16      due for a major earthquake. They get one about  
17      every 600 years, and it's been 1200 years since  
18      they have had one. This is earthquake country.  
19      You guys identified six or seven major earthquake  
20      faults out in that area but you still say it is  
21      safe to store nuclear fuel. I do not understand.

22                The proposed storage site is located  
23      within flood plains. The SER says hey, we are a  
24      couple feet above the maximum flood plain. We that  
25      live in this desert area, I have seen cities

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1 flooded by moderate rainfall. There is flood  
2 possibilities out there.

3 The proposed storage site is located too  
4 close to a metropolitan area.

5 The proposed storage site is faulty.

6 I'd like to cite two things. You are going to set  
7 tons of concrete and steel and nuclear waste on  
8 three feet of cement. We here in the Great Basin,  
9 sometimes we put as high as 12 feet of cement under  
10 moderately heavy equipment to protect it. You are  
11 going to put 3 feet.

12 JUDGE FARRAR: Could I interrupt you?

13 According to my watch you are getting close to the  
14 three minutes you promised me you would take.

15 MR. JOHNSON: Can I --

16 JUDGE FARRAR: If you would keep to what  
17 you said you would do. And we are interested in  
18 what you have to say but we have other people who  
19 need their chance to get to the podium.

20 MR. JOHNSON: Can I read a couple more  
21 items? And also, you are not going to secure those  
22 casks to the cement. They are just going to sit  
23 there. Terrorist opportunities abound. Many  
24 terrorist scenarios would be played out on a daily  
25 basis.

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1                   Nuclear power accounts for 20 percent of  
2                   our power. We can and must conserve that amount.

3                   The Goshutes Indian Band government is  
4                   unstable, too unstable to administer this nuclear  
5                   project. The storage contract is defective and may  
6                   be illegal.

7                   The nuclear transporting corridors will  
8                   be competing with massive passenger services.

9                   Utah State law prevents such a  
10                  debauchery as this occurring or harming Utah  
11                  citizens.

12                  The participating identities are not  
13                  financially sound. Many dollars must be escrowed  
14                  to cover losses. Thank you, sir.

15                  JUDGE FARRAR: Thank you, Mr. Johnson.  
16                  We appreciate the feeling and the effort that went  
17                  into that statement. I might just mention for the  
18                  benefit of the audience, we said in the opening we  
19                  were here to hear over the next six weeks two  
20                  safety and two environmental issues. One of those  
21                  safety issues is, in fact, the question of seismic  
22                  question to which Mr. Johnson referred. As I said,  
23                  we are an independent board. We sit here to hear  
24                  the evidence that the various parties will present,  
25                  particularly on that issue. The state, the

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1 company, and the NRC staff.

2                   That hearing will begin at the Sheraton  
3 City Center on Monday, April 29th and go all that  
4 week and maybe up to and including Saturday, and  
5 then the next week, May 6 through possibly  
6 Saturday. And so any of you who are interested in  
7 hearing top flight experts and top flight lawyers  
8 litigate an issue like that, that is very  
9 important, we certainly invite your attendance at  
10 that session.

11                  Let me run -- so that we can allocate  
12 time properly, let me just ask for a show of hands  
13 from the audience of how many people signed up to  
14 make statements this afternoon. Thanks. Let's  
15 then try to keep to three minutes or slightly over  
16 so that everyone will get a chance to speak. The  
17 next three people I have are Stephen Varos. Is he  
18 here? Bill Peterson? Gary Sandquist? Amy Hines?  
19 Cynthia King? Next person after Ms. King would be  
20 Marlinda Moon. Is she here? Go ahead, Ms. King.

21                  MS. KING: My name is Cindy King. I  
22 represent the Utah Chapter of the Sierra Club.  
23 There seems to be some unanswered questions in  
24 regards to the jurisprudence authority of various  
25 agencies regarding proposed temporary storage of

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1           high level spent nuclear fuel rods. There are at  
2           least two unanswered questions in regard to  
3           jurisprudence. One, is the Skull Valley Band of  
4           the Goshutes a sovereign nation? And two, is the  
5           Skull Valley Band of the Goshutes a quasi-sovereign  
6           as determined by the Department of the Interior?  
7           Let me briefly explore the two questions and  
8           following conclusion.

9                 Is the Skull Valley Band of Goshutes a  
10          sovereign nation? The issue of sovereignty needs  
11          to be determined. If the Skull Valley Band of the  
12          Goshutes is sovereign then the contract, lease,  
13          and/or agreement with Private Fuel Storage  
14          consortium of nuclear power plants could be  
15          considered a treaty. This is unconstitutional.  
16          The only way a treaty can be developed in this  
17          country is by the president with a two-thirds vote  
18          of the Senate, or a president can choose to develop  
19          an executive agreement. Either way, to my  
20          understanding, there is no treaty between the  
21          United States and the Skull Valley Band of the  
22          Goshutes nor is there any executive agreement for  
23          the relinquishing of a high level nuclear spent  
24          fuel rods which are, to my understanding, property  
25          of the United States government. There is no

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1 authority granted to administrative agencies to  
2 grant treaties or executive agreements with  
3 sovereign nations. Therefore the contract between  
4 Private Fuel Storage consortium of nuclear power  
5 plants is not legal.

6 The issue of ownership of high level  
7 spent nuclear fuel rods. The United States owns  
8 the high level spent nuclear fuel rods, according  
9 to a 1977 policy of the Department of Energy. This  
10 would require a treaty or executive agreement  
11 between the United States and the Skull Valley Band  
12 of the Goshutes, and not between Private Fuel  
13 Storage consortium of nuclear power plants and the  
14 Skull Valley Band of the Goshutes. There is no  
15 data that I could find in public domain concerning  
16 this. The United States government has not agreed  
17 to and/or developed contracts allowing the transfer  
18 of ownership of high level spent nuclear fuel rods  
19 to Private Fuel Storage consortium of nuclear power  
20 plants. The proposed purpose would be for  
21 transplanting and/or storing them at the Skull  
22 Valley Band of the Goshutes tribal land, whether  
23 temporary or permanent.

24 It is my understanding there is  
25 currently no treaty or executive agreements with

1       any nation to transport or store high level spent  
2       nuclear fuel rods, whether permanently or  
3       temporary, which are owned by the United States  
4       government.

5                   Two, is the Skull Valley Band of the  
6       Goshutes quasi-sovereign as determined by the  
7       Department of the Interior? The Department of the  
8       Interior has granted certain sovereignty to all  
9       Native Americans on their tribal lands. This can  
10      mean that Native Americans can negotiate with  
11      private companies to do certain activities on their  
12      lands. The companies would still have to comply  
13      with Native American laws and United States  
14      statutes and regulations.

15                  The National Environmental Policy Act  
16      requires government agencies to analyze  
17      environmental impacts on proposed actions. The  
18      agencies are to be neutral and objective in  
19      reviewing the determination of these impacts. All  
20      the agencies in this process have allowed the  
21      nuclear industries and the Private Fuel Storage  
22      consortium of nuclear power plants to hijack the  
23      neutrality and objectivity in reviewing  
24      environmental impacts as the proposed temporary  
25      storage of the high level spent nuclear fuel rods.

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1       This has allowed the nuclear industries and Private  
2       Fuel Storage consortium of nuclear power plants to  
3       threaten the Nuclear Regulatory Commission with  
4       noncompliance with the nuclear Waste Policy Act,  
5       which requires a commercial permanent repository as  
6       of January 31, 1998 therefore making a mockery of  
7       the environmental impact statement process. This  
8       is demonstrated by the agency's cavalier arrogance  
9       in regards to safety issues. In numerous sections  
10      of the environmental impact statement the  
11      administrative agencies refer to safety issues as  
12      being addressed in the Safety Evaluation Report,  
13      yet this document was not allowed for public review  
14      and/or input. The draft environmental impact  
15      statement did not review the possibility of  
16      terrorist acts, even though the government had  
17      policies in place in regards to high level nuclear  
18      material. These policies were one reason that  
19      ownership of the high level spent nuclear fuel rods  
20      would be that of the United States government.  
21      This is ironic since prior to the release of the  
22      final environmental impact statement, this country  
23      faced an act of terrorism on September 11, 2001.  
24      At one point the agencies were considering blacking  
25      out and/or removing sections of the final

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1 environmental impact statement based, on this  
2 tragedy. After the tragedy of September 11, the  
3 president requested a re-evaluation of safety  
4 issues regarding the nuclear industries, including  
5 but not limited to the storage, transportation, and  
6 disposal of high level nuclear waste. None of the  
7 agencies involved in this process considered  
8 supplementing the environmental impact statement  
9 as the National Environmental Policy Act requires  
10 governmental agencies to do, if there are data gaps  
11 and/or new information. All of these agencies  
12 involved approved the final environmental impact  
13 statement without addressing the possibilities of  
14 acts of terrorists in regards to transportation and  
15 storage of high level nuclear fuel rods.

16 In summary, the issues of sovereignty  
17 needs to be determined. There are some questions  
18 about the jurisprudence of the various  
19 administrative agencies having the authority to  
20 allow agreements with sovereign nations and/or  
21 private limited liability companies. To my  
22 understanding, only the president can make treaties  
23 and/or executive agreements with sovereign nations.  
24 There is no information in the public domain that  
25 establishes that there is an agreement with the

1       United States government to transfer, whether  
2       permanent or temporarily, the ownership of high  
3       level spent nuclear fuel rods to any privately  
4       owned company for the purpose of transporting and  
5       storing high level nuclear spent fuel rods. Nor,  
6       to my understanding, is there any treaty or  
7       executive agreement with any sovereign nation to  
8       transport or store, whether temporary or not, the  
9       high level spent nuclear fuel rods which are owned  
10      by the United States government.

11                  The National Environmental Policy Act  
12      requires neutrality and objectivity from  
13      governmental agencies in their analysis of impact  
14      to the environment from the proposed actions. The  
15      various agencies have a cavalier arrogance in  
16      regards to safety issues. There are policies  
17      currently in place regarding protection against  
18      acts of terrorism in regards to safety concerns of  
19      high level spent nuclear fuel rods. The various  
20      agencies involved, by their own admission, had  
21      concerns relating to acts of terrorism in regards  
22      to the possibility of blacking out and/or removing  
23      some sections of the final environmental impact  
24      statement. Yet the various agencies involved  
25      approved the final environmental impact statement

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even though the National Environmental Policy Act requires governmental agencies to supplement environmental impact statements if new information becomes available and/or there are data gaps. For example, analysis that the president requested in regards to storage, transportation, processing, et cetera of the nuclear materials and waste from nuclear power plants such as proposed here.

9                   Thank you for the opportunity to appear  
10                 before you and I have submitted a copy of my  
11                 statement to the court reporter.

12 JUDGE FARRAR: Thank you, Ms. King. Let  
13 me discuss timing. We are here and we want to  
14 listen to you. And you have waited a long time for  
15 these opportunities. But I see, as we are  
16 conducting this, more and more people coming in the  
17 back door and signing up to make statements. So if  
18 you go over your time limit, you are not harming us  
19 but you are going to deprive some of your fellow  
20 citizens of the opportunity to make their  
21 statements. I once had a job where I had to make  
22 presentations to a group monthly and my boss would  
23 say, "You have ten minutes." And all of the sudden  
24 at the last minute he would say, "You have three  
25 minutes." And I would find what I would have said

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1       in ten minutes I could say in three minutes. So I  
2       ask all of you who are out there and have  
3       statements that are longer than three minutes, that  
4       you respect the rights of your fellow citizens,  
5       find a way to say what you have to say in outline  
6       form.

7                   We would welcome you submitting a full  
8       statement. I know in Congress they do this. They  
9       make a short statement and submit a long one for  
10      the record. But you all are so polite out here, I  
11      would hate to start banging this gavel and asking  
12      people to sit down. So I count on you for some  
13      self-discipline in keeping things down to the three  
14      or slightly more minutes time. And then everyone  
15      will get their chance to speak.

16                  Next name, Marlinda Moon? Miranda Wash?

17                  MS. WASH: My name is Miranda Wash and  
18       I'm a member of the Skull Valley Band of Goshutes.  
19       I'm the tribal secretary. And I came to talk to  
20      you to discuss this because I used to support the  
21      PFS. I used to be one of their supporters but  
22      because of the issues that's going on that I'm sure  
23      you are aware of with Skull Valley, I do not  
24      support it no more because I found out more stuff  
25      that's going on that we was not informed when the

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1 former chairman was bringing the PFS to the tribe.  
2 He had not informed us of the danger of the  
3 facility to Skull Valley. And it is true that if  
4 the facility does go to Skull Valley, that our land  
5 will be ruined. And we won't have a place to go  
6 back to if our land was ruined from the radiation  
7 or whatever it puts out. So that's the reason why  
8 I'm here is to state that.

9                   And then plus, too, it is not only the  
10 land. It is the PFS has their input in our tribe,  
11 in our reservation, due to the former executive  
12 committee because they think that they could go in  
13 and have the PFS tell them what to do. But we  
14 can't have this big facility coming in and telling  
15 our tribe and our people what to do. We are our  
16 own government. We are our own government body,  
17 and our general council is the one that has the  
18 majority vote. They are the ones that tell the  
19 people, tell the PFS if they want it and if they  
20 don't.

21                   And this information has not come about  
22 to the people, and that's what they want. They  
23 want to know all this information. Right now with  
24 all this stuff going on, they have not been  
25 informed. The former council has not informed any

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1       of the tribal members. Maybe half, maybe a fourth  
2       of the tribal members they have known. But not the  
3       other half has not had any of this information.  
4       They have never been filled in with all this stuff  
5       that's going on. That's why I'm here to find out  
6       what is going on and all this stuff. And it's not  
7       only -- it is unsafe. I found that out. It is  
8       unsafe for Skull Valley. It is unsafe for the  
9       people because of what is going on with the  
10      conflict with the leadership. It is unsafe. So  
11      that's all I want to say and hope to see you soon.  
12      Thanks.

13                     JUDGE FARRAR: We appreciate you taking  
14      the time to come here. Yes, sir?

15                     MR. VAROS: I'm a few minutes late. I'm  
16      Stephen Varos. I was number three on the list?

17                     JUDGE FARRAR: Okay. We will go back to  
18      you, then.

19                     MR. VAROS: Okay.

20                     JUDGE FARRAR: You were not so late as  
21      not to hear my request that people limit  
22      themselves?

23                     MR. VAROS: The three-minute request, I  
24      did hear that. Is that what you are talking about?

25                     JUDGE FARRAR: Yes.

1                   MR. VAROS: The question of temporary  
2                   versus permanent storage has been raised by the  
3                   state and this question is made more clear by  
4                   considering the value of the interim storage.  
5                   First of all, before Yucca Mountain is approved,  
6                   there will be a need for storage before some of the  
7                   nuclear plants that may have to shut down for the  
8                   lack of the storage. Second, this Yucca Mountain  
9                   itself will be ready and approved if spent nuclear  
10                  fuel can first be aged until it is 50 years old  
11                  before placement in Yucca Mountain. This could  
12                  happen by taking spent nuclear fuel which is  
13                  already 15 years old from pool storage, and adding  
14                  35 years of interim storage to get the 50 year old  
15                  spent nuclear fuel. This puts out about half as  
16                  much heat as the five year old fuel, eliminating  
17                  the need for 10,000 horsepower fans at Yucca  
18                  Mountain and saving \$5 million a year in  
19                  electricity. But more importantly, only half as  
20                  many drift tunnels would be needed to achieve lower  
21                  temperatures. This could save many billions of  
22                  dollars at Yucca Mountain.

23                  Another need for interim storage is that  
24                  it would be more accessible when and if  
25                  reprocessing is resumed in the United States.

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1       About half a dozen of our allies already find it  
2       useful to reprocess and we will eventually do that,  
3       also. When that happens, spent nuclear fuel will  
4       be more accessible from interim storage than from  
5       Yucca Mountain. For these two main reasons, and  
6       the one that we need some storage before Yucca  
7       Mountain is available, the Private Fuel Storage  
8       will not become permanent storage. We need these  
9       35 years of additional aging that will make great  
10      savings for Yucca Mountain and because the spent  
11      nuclear fuel will likely go to a reprocessing  
12      facility. In either case, interim storage will  
13      remain temporary, not permanent.

14           In any case, the issue of permanence is  
15      not really important because spent nuclear fuel in  
16      Skull Valley will not impair the health of anybody  
17      in Utah, nor even the workers who are the ones  
18      living in the Goshutes village a few miles away.  
19      The chances of some kind of mishap which would  
20      release radioactivity are very small. Still it is  
21      a good idea to reduce those chances even further,  
22      and those of us who are working at the Pigeon Spur  
23      fuel bank are working to improve the hardening of  
24      the storage and the transportation. We would like  
25      to improve those things even further.

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1                   While not one person working for the  
2                   U.S. commercial nuclear power industry has been  
3                   killed by a radiation accident, people are fearful  
4                   because of the unknown nature of the radioactivity.  
5                   What they do not fear is the 20,000 deaths each  
6                   year from the coal smoke from our coal-fired power  
7                   plants. These deaths show up as increased heart  
8                   attacks, widely spread among the population so no  
9                   individual death can be traced to the coal smoke  
10                  particles. That is the small ones, pm 2.5.

11                  In a similar way, people fear airplane  
12                  crashes but they don't fear automobile travel even  
13                  though airplane travel is much safer. It is  
14                  because every airplane crash tends to make the news  
15                  in a big way. And the same is true of any kind of  
16                  a nuclear accident; it would make the news in a big  
17                  way, whereas the 20,000 deaths from coal smoke,  
18                  they don't make the news. And I say that I have  
19                  discussed previously at previous meetings the  
20                  safety of the storage and the transportation, but I  
21                  affirm that those things are safe enough, very  
22                  safe, and we should go ahead. Thank you.

23                  JUDGE FARRAR: Thank you. Thank you for  
24                  taking the time to share with us. Fred --

25                  MR. PETERSON: I'm Bill Peterson and

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1 I'm late, too.

2 JUDGE FARRAR: Okay. Go ahead.

3 MR. PETERSON: I, like Dr. Varos, I will  
4 go through a brief version. I'm saying Yucca  
5 Mountain is a good place to store spent nuclear  
6 fuel but a better place if it is first stored at  
7 the Goshutes reservation or Pigeon Spur fuel  
8 facility. Spent fuel stored for five years in the  
9 pools, about 98 percent of its heat is lost. And  
10 then the next 50 years you end up losing half of  
11 what's still left. But it is requiring 10,000  
12 horsepower of fans for storage in Yucca Mountain.  
13 That can all be avoided by putting it into storage.  
14 It needs to go to interim storage so it can be  
15 staged and go out for processing, because it needs  
16 to be reprocessed.

17 Now, the president has asked for  
18 reprocessing to be considered, and it should be  
19 considered. By interim storage we can save the  
20 10,000 horsepower that's being currently required  
21 at Yucca Mountain. We don't need to do that.

22 Let me submit what I have in writing and  
23 not go into this in further detail. Let me say  
24 that we have been attempting to put together Pigeon  
25 Spur and Box Elder County for about the same length

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1       of time that something was working there. You need  
2       both facilities. You have 77,000 tons to store.  
3       We have been slighted because of NRC's change in  
4       rules where they allow PECO energy to store at  
5       Peach Bottom. We had PECO Energy ready to work  
6       with us and provide us money for the licensing, but  
7       due to the changes in rules that NRC made to allow  
8       them to store at Peach Bottom, that changed their  
9       position with us and we were not able to get  
10      financing. We have gone to other sources and we  
11      are still not financed.

12                   So we are pleading with you, we have  
13      gone through the hearing stages in Box Elder  
14      County. We have the people behind us up there. We  
15      want to formally petition that you license Pigeon  
16      Spur at the same time you license Private Fuel  
17      Storage. We have the data behind us to support  
18      this. The NRC needs this, the United States needs  
19      this. It is a good alternative and we are prepared  
20      to do this.

21                   Furthermore, I want to say that I've  
22      been working with spent nuclear fuel storage for  
23      longer than our governor has been in office. Spent  
24      nuclear fuel has been a national issue and spent  
25      nuclear fuel is my business. The congress made the

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1        nuclear material laws for engineers like myself to  
2        do the work that is needed. It is a federal, not a  
3        state issue. "Not in my backyard" is not an issue.  
4        Utah is not the backyard of the United States.  
5        Utah's governor's oath of office requires him to  
6        uphold all constitutional and federal law and he  
7        just breached his oath of office in fighting this  
8        issue.

9                   Governor Leavitt said "over my dead  
10      body" and that is what is happening. Our governor  
11      might have had a cabinet appointment but who would  
12      appoint a person that would fight against the needs  
13      of the nation and the laws that the Congress has  
14      made to accomplish these needs? The governor has  
15      not only lost face in Washington because of his  
16      defiance of the federal law, but with him likewise  
17      all of Utah has lost face in Washington.

18                  Intermediate storage of spent nuclear  
19      fuel will come to Utah because Utah is the only  
20      place two people, Leon Bear and myself, have had  
21      the foresight to solve this national issue. But as  
22      other opportunities arise within our nation, Utah  
23      will be bypassed over because of our governor's  
24      attitude that Utah is too good to adhere to federal  
25      law and do the work on our nation's critical needs.

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1                   I thank you for this time. I have those  
2                   in writing. I have the written request for  
3                   consideration of Pigeon Spur, licensing of the same  
4                   kind time as Private Fuel Storage.

5                   JUDGE FARRAR: I prefer --

6                   MR. PETERSON: I have several companies.

7                   JUDGE FARRAR: There is nothing we can  
8                   do with that request. We will take it, but --

9                   MR. PETERSON: This request is going to  
10                  the secretary. A copy for Mark Delligatti. I  
11                  thought he would be here today. And a copy for the  
12                  media.

13                  JUDGE FARRAR: Sir, we are happy to  
14                  receive it but we are not the group that can act on  
15                  it. So we will take it but you have to submit it.

16                  MR. PETERSON: I have other writings on  
17                  this, too, but they explain the benefits of Pigeon  
18                  Spur over other alternative needs to be considered.

19                  JUDGE FARRAR: Okay. Thank you. We  
20                  skipped over Amy Hines. Is she here yet? Marlinda  
21                  Moon? Fred Wahlquist?

22                  MR. WAHLQUIST: My name is Fred  
23                  Wahlquist and I'm a retired mechanical engineer  
24                  living in Ogden. I spent 33 years working in the  
25                  nuclear energy field, with 23 of those years in the

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1       commercial nuclear power industry. For ten of  
2       those years I traveled to various nuclear plants  
3       throughout the United States and removed fuel rods  
4       for a nondestructive examination. That work  
5       included a shipment of radioactive contaminated  
6       tools in shipping boxes. I'm forever amazed that  
7       people cannot separate an atomic bomb blast from  
8       the fuel assembly that has spent its life and is  
9       now considered of no value. I don't understand  
10      that mental thinking.

11           I was in Idaho Falls when the one atomic  
12       blast caused the white dust to sift over. I went  
13       to work. They wouldn't let me in the plant, along  
14       with all the others, because of the contamination  
15       on our clothing and our shoes. It was very short  
16       half-life stuff and was gone in a matter of about  
17       24 to 36 hours.

18           The reason we are here today is to let  
19       you know that every resident of the state of Utah  
20       does not agree with Governor Leavitt. We support  
21       the storage of spent nuclear fuel casks on the  
22       Goshutes Indian reservation. Spent nuclear fuel  
23       casks will not present a radiation hazard to the  
24       general population during transportation of the  
25       cask in the state. One would have to hug one of

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1       those spent fuel storage casks tightly for 10 to 15  
2       hours to get the same amount of radiation he would  
3       get from a normal medical X-ray. I have a much  
4       greater concern for the radiation in our homes  
5       along the Wasatch Front in the form of radon gas  
6       than I would to have a spent nuclear cask sitting  
7       on the lot next to my home.

8                  We have wondered if there was a  
9       radiation release what kind of level there would  
10      be. Would it be a metal oxide that escaped? Would  
11      it be fission products? How high would the level  
12      be and how and where would it drift? Also with  
13      that level, how would that level compare with the  
14      naturally occurring radiation seeping into our  
15      homes along the Wasatch Front? With that in mind,  
16      last summer we purchased an electronic radon  
17      detector and have measured the radon levels in nine  
18      different homes in our area. Four of those homes,  
19      almost half, had radiation gas levels in their  
20      basements where children sleep and play that range  
21      from 2.5 times to 3 times greater than EPA  
22      considered as a safe level. While some may feel  
23      these levels represent a low risk of developing  
24      lung cancer, they certainly have a much higher  
25      potential for affecting public health than spent

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1       fuel casks encased in steel and stored in the  
2       desert south of the Great Salt Lake.

3                 Having watched the hearing this morning,  
4       it is unfortunate that during the late 1970s the  
5       United States made a political decision not to  
6       allow the commercial processing of spent fuel  
7       assemblies. Had they allowed recycling of spent  
8       fuel like the rest of the world was doing, this  
9       hearing might not be necessary. The volume of  
10      radioactive waste would be much smaller and we  
11      would have recycled uranium plus plutonium to be  
12      used in future fuel assemblies. With the problem  
13      of storing both fuel assemblies, the political  
14      decision made back in the late 1970s was not a very  
15      wise or intelligent decision and it should be  
16      reversed. And I thank you.

17                 JUDGE FARRAR: Thank you, sir, for your  
18      thoughts. Corey Hoopiiana? Do I have that right?

19                 MR. HOOPIIANA: Thank you for your time.  
20      My name is Corey Hoopiiana.

21                 JUDGE FARRAR: Would you spell that for  
22      the reporter.

23                 MR. HOOPIIANA: H-O-O-P-I-I-A-N-A. Just  
24      a quick note before I start. I'm a little  
25      distraught about the word not getting out. It was

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1 just by happenstance that I was able to get a fax  
2 that mentioned the meeting. And I saw the paper  
3 yesterday where it mentioned this meeting was going  
4 to be here. But I immediately went to the web site  
5 and it said that if you want to take a three-minute  
6 block that you need to mail in your name and your  
7 concerns so that we can reserve this. And then  
8 having done that, obviously you have my name but I  
9 was not notified as to the time that I was supposed  
10 to be here by e-mail or fax or anything else. And  
11 so I just kind of wanted to let you know that  
12 there's going to be people that aren't going to be  
13 here that should be here that aren't adequately  
14 notified. The reason I'm here is --

15 JUDGE FARRAR: Hold on, before you  
16 start. Well, I promised at the beginning not to  
17 debate with anyone. In terms of the notice, we put  
18 out an order many weeks ago, put it in the Federal  
19 Register, sent it to the news media, sent out a  
20 press release. That's all we -- we made the web  
21 site available and told people to sign up for one  
22 of four sessions. So that's about all we thought  
23 we could do. So I hear your complaint about that,  
24 it's probably misdirected if it is sent to us.

25 MR. HOOPIIANA: Were you part of the

1 NRC.com? That's where we sent the e-mail to. And  
2 there was no response given back to us at our  
3 office. So I just kind of showed up today.

4 JUDGE FARRAR: Exactly when you were  
5 supposed to show up.

6 MR. HOOPIIANA: That was by  
7 happenstance, by luck. It wasn't because I was  
8 notified in any other way.

9 JUDGE FARRAR: Let me go back to my rule  
10 that I won't engage in any debate.

11 MR. HOOPIIANA: That's fine. I just was  
12 making that as a point.

13 JUDGE FARRAR: If you don't make the  
14 point again, I won't count the three minutes you  
15 already spoke and you can have three minutes.

16 MR. HOOPIIANA: Okay. Thank you.

17 The reason I'm here is because, a couple  
18 of different reasons. I totally support Governor  
19 Leavitt's decision to not have that here. I am the  
20 vice-president elect of the IOSEPA historical  
21 association. We actually have property out there  
22 in that region where they are proposing, about ten  
23 miles north of the Goshutes Indian reservation.  
24 And we have spent a lot of time out there,  
25 primarily because that area is the first Polynesian

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1           town site ever established in the United States, or  
2           anywhere, for that matter. We have a lot of  
3           ancestors that are buried out there. That land is  
4           very sacred to us. We are in the process of  
5           building another monument to the first lady who  
6           expired out there. We have other plans to erect  
7           other monuments and we are trying to keep that land  
8           as sacred as we can.

9                         And the thought came to me this morning  
10          as I was taking out my garbage, I can take my  
11          garbage from one part of my property and stick it  
12          on another part of my property. I took it and  
13          disposed of it so it was gone completely. And I  
14          think with the idea, this proposal of having a  
15          temporary facility to store this amount of high  
16          level radioactive waste material is preposterous.  
17          It is the most ridiculous thing I think I have ever  
18          heard. We spent enough time out there this week,  
19          I'm scheduled to be out there for three days, and  
20          was out there several days last week. And every  
21          day. there are low-level F-15s, F-14s, whatever they  
22          might be, that are in that area flying at high  
23          speeds. And not only that, there is also a bombing  
24          range right on the west side of the Cedars that is  
25          only a few miles away. And that's high level

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1 bombing and you can see their trails miles up in  
2 the air long before you hear the bombs dropping and  
3 exploding on the west side of the desert.

4 Our concern is, I met with Bill Peterson  
5 and he is a physicist, a very smart, intelligent  
6 man, and Dr. -- is it Varos? I met with both those  
7 gentlemen and they are very smart. But you know  
8 what? If one of these bombs, for whatever reason,  
9 gets out of control and hits the center of that  
10 site, I don't think anybody has an idea of what  
11 kind of damage could take place. And I think it's  
12 the NRC's responsibility to really look into this  
13 and not allow PFS to come in and dump this nuclear  
14 waste on our state.

15 I was up at Governor Leavitt's last  
16 week. We didn't make it. We don't benefit from  
17 it. So why would we want to store it for any  
18 length of time? It just doesn't make sense. We  
19 are trying to, as a Polynesian Culture Center out  
20 there, we have met with the officials in Tooele  
21 County and we are proposing to do everything we can  
22 to derail this. And so we have been cleared to  
23 build a Polynesian culture center out there. And  
24 by doing this, we are hoping that we can bring some  
25 interest out to that area.

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1           I have talked to Leon Bear and I can't  
2 understand why they don't use their creative  
3 thinking abilities to find a different way to bring  
4 in a source of income. There are things you can do  
5 with that amount of land. And in the paper it said  
6 they were proposed to lease 150 acres to store  
7 this. And our association, we just feel like there  
8 are other alternatives that can be done to help the  
9 Goshutes nation. And I'd just like to tell the NRC  
10 that if you lived in the state, in this state that  
11 we live in, you might take a different stance as to  
12 whether or not this gets here or not. Thank you  
13 for your time.

14           JUDGE FARRAR: Thank you. When Mr.  
15 Johnson spoke, I mentioned he was concerned about  
16 seismic issues and I mentioned we had two weeks of  
17 hearing on that. You have given me the opportunity  
18 to remind people that starting tomorrow we will be  
19 dealing with the safety issue you raised, the  
20 possibility of accidents from military operations.  
21 We are sorry but we couldn't get space this week so  
22 we are moving around. But I would encourage you  
23 all to come. Tomorrow we are at 3:30 p.m. to 7:30  
24 p.m. at Little America right down the street. And  
25 then on Wednesday through Saturday, we are at the

1 State Capitol starting at 10:30 Wednesday and  
2 starting at 9:00 a.m. Thursday through Saturday.  
3 So if people are interested in the concern about  
4 the aircraft operations, we encourage you to come  
5 to that hearing where you will hear some good  
6 lawyers and good witnesses discussing exactly that  
7 issue. Thank you.

8 MR. HOPIIANA: Do you happen to have a  
9 flier that mentions where those meetings are going  
10 to be held at, the thing that you just read? Can  
11 we get a copy of this?

12 JUDGE FARRAR: See Sharon, in back.

13 MR. HOPIIANA: Thank you.

14 JUDGE FARRAR: Next name I have is  
15 Dr. Herman Peine is it?

16 DR. PEINE: It's Dr. Peine. I'm  
17 Dr. Herman Peine, and thanks for letting me be here  
18 to make a few comments, Mr. Chairman. I'm an  
19 adjunct professor at the University of Utah and a  
20 psychologist who has been practicing in the state  
21 about 30 years. And a long term resident. So I  
22 have no vested interest in terms of the nuclear  
23 industry and so forth. I'm here as a citizen and  
24 professional. And I want to just give a little  
25 metaphor of something that happened in my life last

1       night. We have a bedroom upstairs that is vacant  
2       and my ten-year-old son was given permission to use  
3       it as his Lego room. Well, he promised that there  
4       would be a safe passage to the closet where we keep  
5       our clothes. Well, last night, it just happened on  
6       that safe passage to the closet where I go get  
7       clothes there was a little Lego that I stepped on  
8       and it hurt quite a bit and I jumped and landed on  
9       some other Legos and they hurt a lot. And then I  
10      said, "I have to get out of here," so I jumped  
11      further, not realizing that one of the Legos was  
12      embedded in my foot, and I landed on it again.  
13      Needless to say, I limped to this meeting a bit  
14      today. And when I told my son about the incident,  
15      he said, "Well, there was a clear and safe path.  
16      How could an accident like this have ever  
17      happened?" I haven't had any trauma to my foot for  
18      years and years and years. Who would have  
19      suspected Legos would do that?

20           Well, as I think about that little  
21      incident, I reflect back on other promises which  
22      have been made, safe paths, and one of the things I  
23      realize with my clients is there are no absolute  
24      guarantees. And I think anyone who says this is an  
25      absolutely safe venture, hasn't studied much about

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1 probability theories and the notion that if things  
2 can go wrong they probably will. And I'd like,  
3 into the record, there is a wonderful book by  
4 Blaine Harden, A River Lost: Life and Death of the  
5 Columbia River. There's a couple of excerpts in  
6 there, because I'm very interested in what happens  
7 psychologically to people.

8 I think when you perceive danger, when  
9 you perceive anxiety, when you perceive concern, to  
10 you that is reality. And it may not be reality in  
11 terms of the real world, but that is people's  
12 reality. And when I'm taking a look at what  
13 happened on the Columbia River, especially with the  
14 Coalville tribe as the Cooley Dam was built and  
15 they lost some of their tribal homes when a  
16 150-mile lake was developed, rates of suicide,  
17 fatal car accidents, alcoholism, drug addiction,  
18 divorce, and death by housefire on the reservation  
19 soared to levels that stunned the anthropologist  
20 who lived with the tribe before the building of the  
21 dam: And today if we take a look at that tribe,  
22 typically, death for young Indian males with high  
23 blood alcohol and perhaps some drug addiction,  
24 suffering from depression, unemployment for some  
25 period of time is usually a gunshot or traffic

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accident. You can take a graduating class at that local high school there and in ten years they are all dead. It is absolutely staggering. And I'm just wondering, in terms of environmental justice, if we have really taken a look not only in terms of the tribe, in terms of potential damage, but in terms of the psychological variables that will be plaguing Utahans.

I know we have got a long history that's been talked about over and over again. Seems to me it's here we go again, into Legoland, if you will, in my upstairs bedroom, where there are risks. And a lot of people would say there are no risks, but there are. And if we talk about that, and now my time is up but if we talk about the Hartford plant and all the things, it would be 180 years they said before possible leaching of some of the radioactive ground water into the Columbia River. Hey, it's a safe passage through Legoland. The 180 years has been encapsulated into where it is very close to the river right now. And maybe it has seven to twelve years. So thank you. Appreciate your listening to me.

24 JUDGE FARRAR: Thank you for sharing the  
25 metaphor with us.

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1                   MR. PEINE: Mr. Chairman, it is Hanford,  
2                   not Hartford.

3                   JUDGE FARRAR: I knew what you were  
4                   talking about. Let me see a show of hands again,  
5                   how many people are here to speak. Fine. Thanks.

6                   Craig Axford?

7                   MR. AXFORD: Mr. Chairman, my name is  
8                   Craig Axford. I'm a Green-party candidate for  
9                   Congress in the First Congressional District, a  
10                  district where this waste site is being proposed.  
11                  And the number of individuals before me have  
12                  mentioned that this stuff is perfectly safe, one  
13                  individual stating he could hug this cask for 24,  
14                  36 hours before getting the radioactivity you  
15                  receive from an X-ray. And I'm glad to hear that  
16                  because that means we can leave the stuff where it  
17                  is. If it is perfectly safe, why are we proposing  
18                  to take it away from the sites where it is stored,  
19                  if it weren't perfectly safe?

20                  I want to address Yucca Mountain as well  
21                  as Skull Valley, because I believe the two projects  
22                  are linked given that, obviously, they both deal  
23                  with nuclear waste. But the capacity at Yucca  
24                  Mountain is 77,000 metric tons of waste. Ten  
25                  percent of that is earmarked for waste generated by

1 the Department of Defense and other government  
2 agencies. So we are looking at about 69,000 tons  
3 of waste that Yucca Mountain can receive. Yucca  
4 Mountain won't be open - assuming it is approved by  
5 Congress and the governor's veto, which I believe  
6 just took place today, is overridden by Congress -  
7 even so, it won't be open and ready to receive  
8 waste for at least another five, ten, maybe fifteen  
9 years.

PFS is proposing a twenty year permit with an option to renew for an additional 20 years at Skull Valley. By 2020, this country will have generated 80,000 tons of nuclear waste. That is 11,000 more tons than Yucca Mountain will be able to receive. When you take into account only the commercial factor, we are generating 2000 tons a year. President Bush wants to open new power plants and extend the licenses on existing power plants. We could well be generating more than 2000 metric tons a year by the time the first twenty year permit is up. And my question to PFS is where are we going to put it by 2040, assuming they extend that permit an additional twenty years? Where are we going to put the 53,000 tons of waste that we can't put in Yucca Mountain once that

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1       second 20-year permit is up? Are they going to  
2       take the 40,000 tons back? I don't think so.

3                     This is not a temporary storage  
4       proposal. It is a permanent storage proposal that  
5       will supplement Yucca Mountain. The only way we  
6       are going to find a permanent solution to the  
7       nuclear waste problem is to stop producing nuclear  
8       waste. We need to get ourselves on that track  
9       because otherwise we are going to be looking for  
10      another Yucca Mountain another Skull Valley every  
11      ten or twenty years, looking for somewhere else to  
12      put this stuff. And the fact of the matter is the  
13      Great Basin and the western United States is always  
14      going to be a target. And we have been a target  
15      long enough as Congressman Matheson and others have  
16      pointed out here today. We have been a target  
17      before and we are sick of being a target.

18                     If it is perfectly safe, you can leave  
19      it where it is. You can find a way to store it on  
20      site. I think the notion that it is perfectly safe  
21      yet they want to get rid of it demonstrates just  
22      how unsafe it is. And to be transporting it off  
23      site only increases the risks that already exist at  
24      the sites where it is currently stored. So we need  
25      to develop an energy policy that begins moving us

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1 away from nuclear waste if we are ever going to  
2 find a permanent solution.

3                   Quickly, environmental justice, PFS is  
4 targeting poor communities, specifically Native  
5 American communities across the country looking for  
6 places to put this waste. I don't think there's a  
7 single gated community in the United States that  
8 received an invitation to take their however many  
9 millions in exchange for taking this waste. It was  
10 poor communities that were targeted. There's a  
11 real environmental justice issue here.

12                  The tribal council is in dispute, as we  
13 have heard a little bit today, as well. I believe  
14 you have an obligation to look into that. Do the  
15 Goshutes really want this waste? There's been  
16 several votes out there that dispute the claim that  
17 the Goshutes are in support of this storage  
18 facility. And finally, we need to know how much  
19 money they are receiving and where the money is  
20 going in exchange for taking this waste.

21                  So again, Mr. Chairman, I appreciate  
22 this opportunity to address your board. Thank you.

23                  JUDGE FARRAR: Thank you very much.

24                  Deanna Lee Hirschi?

25                  MS. HIRSCHI: My name is Deanna Lee

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1           Hirschi.

2           JUDGE FARRAR: H-I-R-S-C-H-I.

3           MS. HIRSCHI: That's correct. Well, I'm  
4           here today as a citizen of Utah, as a citizen of  
5           the United States, as a Green Party candidate for  
6           Salt Lake County Council at large. And I want to  
7           make a public statement opposing the shipment of  
8           the 40,000 metric tons destined for Skull Valley.  
9           I want to oppose that. I also want to oppose  
10          permanent storage of nuclear waste at Yucca  
11          Mountain. And I want to talk just a minute about  
12          the intimate connection between nuclear power  
13          plants and nuclear weapons.

14           The nuclear industry has two parts and  
15          they are both dangerous and I think it has been  
16          proven to us. We are the first country ever to use  
17          a nuclear weapon. We also have evidence of the  
18          terrible accident in Chernoble, Three Mile Island,  
19          and there are others. We know this stuff is  
20          dangerous. We know we are risking our whole  
21          planet's life if we continue to use it. I heard  
22          mention today the possibility of reusing these  
23          spent nuclear rods when the time comes. Well, part  
24          of what that will entail is using them for the  
25          production of nuclear weapons. I think we need to

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1 take stock as a nation and say no, and stop.

2                   We need to develop other sources of  
3 energy; the sun, solar energy, the wind. We need  
4 to start taking care of our planet and we need to  
5 do it now. We didn't -- in Utah we didn't use any  
6 of this nuclear energy. We didn't make it. We  
7 have benefitted nothing from it. And I think it  
8 can just stay where it is and the people who used  
9 it can think about it and see if they want to keep  
10 using it. So I call for a complete dissolution of  
11 the nuclear industry as soon as is humanly  
12 possible. Thank you.

13                   JUDGE FARRAR: Thank you very much for  
14 your comments, Ms. Hirschi. Thomas King?

15                   MS. KING: Well, hello. I am, as you  
16 said, Thomas King. And I guess I'm here to speak  
17 my mind regarding this proposal. I'm here  
18 representing myself and I'd like to think that as a  
19 living being on this planet Earth I would like to  
20 represent the other living beings who do not have a  
21 voice like I do, or a command of the English  
22 language such as I have to express the right to  
23 live without being poisoned by any given species.  
24 And so I would like you to bear in your minds that  
25 not only are there potential impacts to all of the

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1       human beings that live along the proposed transport  
2       routes for this deadly toxic substance, there are  
3       also thousands, millions of other organisms that  
4       could be adversely affected at the same time by any  
5       accident or mishap or act caused by a breach of  
6       the, according to some people, impervious canisters  
7       that are unreachable by anything including physical  
8       force and time and corrosion. I'm given to  
9       understand that there are people who say that  
10      20,000 years later, these casks shall remain as  
11      inviolate as they are the date of manufacture. But  
12      I'm also given to understand that there have  
13      already been leaks from supposedly leak-proof  
14      radiation containment containers. And so I  
15      question a lot of this and I would like you to bear  
16      these things in mind that you not only have the  
17      responsibility for doing the right thing as far as  
18      the human population goes, but there's the life  
19      upon which the life of a human population depends  
20      that is also at risk.

21                   And I'd like to remind you of a couple  
22      historical things. The first thing that comes to  
23      my mind as I think about my history of being aware  
24      of potentials of the use of fission as a means to  
25      generate energy for the use by human beings is that

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1           during the time that Madam Curie was isolating  
2           radium, she was exposed to a lethal dose of  
3           radiation and subsequently died a horrible death  
4           from radiation poisoning that she sustained in her  
5           studies of separation of uranium from pitchblende  
6           that uranium was also found in. I'd like you to  
7           bear that in mind.

8                 The other point I'd like you to bear in  
9           mind is those planners and builders and mechanical  
10           engineers and all those great minds with the high  
11           degree of education that built the Chernoble plant  
12           had every good intention of there being no  
13           catastrophic failure and tremendous release of  
14           poison in that country over there. Just like the  
15           people here, they were thinking of their wallets.  
16           They were thinking of the future, the financial  
17           security, and what they would be able to do with  
18           all that money that they would get from the  
19           engagement of the financing that enabled them to  
20           build that plant and the energy that they would be  
21           able to sell and that they would be able to keep  
22           selling. And so they thought only of that and they  
23           thought, "Well, we can make it safe." And they  
24           believed it was safe.

25                 And I'm sure that all of the people here

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1 who are so interested in the increase of their  
2 fortunes that they are willing to ignore the fact  
3 that the probability theory is still an inexact  
4 science. But everyone knows about Murphy's law and  
5 that if something can go wrong, it will. And if it  
6 is true that, as maintained by some supposedly  
7 learned men here today, that these casks are  
8 unbreakable and perfectly safe, that they would be  
9 safe in having them in their own yard, it just  
10 makes common sense, if you just used common sense,  
11 it is safer to leave these safe containers alone  
12 where they are or move the materials tens of feet  
13 instead of thousands and thousands of feet and  
14 thousands of miles. It just makes sense. It seems  
15 like you have to be an idiot to not see the common  
16 sense to leave that waste where it is, do your best  
17 to protect it, and quit making more.

18           And I think that I have thought this for  
19 30 years, since I first became aware of the hazards  
20 of nuclear radiation and the fact that breeder  
21 reactors utilizing the process known as fission  
22 create more radioactive materials: That, in my  
23 opinion, it is utter insanity, that it is only  
24 motivated by greed to continue allowing fusion to  
25 be utilized as a means of energy production on this

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1           planet. And that's all I will say.

2                             JUDGE FARRAR: Mr. King, thank you. We  
3           appreciate your thoughts. Going back on the list  
4           of people who were signed up before today. Is Amy  
5           Hines here? And Marlinda Moon? We have been at  
6           this about an hour and a half. And so I'll use the  
7           court reporter as an excuse for taking a seven  
8           minute break. It's 28 after. Let's be back at 25  
9           of.

10                          (A break was taken.)

11                         Q.      We are back a little later than we  
12           thought. The reason we are late is the question  
13           has come up during the break about people wanting  
14           to speak both this afternoon and this evening, and  
15           perhaps some erroneous information being put out by  
16           our office.

17                         As I mentioned several times in terms of  
18           the time limits on people, the purpose of these is  
19           to let as many people as possible who care about  
20           being here speak. Tonight we are likely to have a  
21           significantly larger crowd and we can't have some  
22           people speaking twice if that means other people  
23           don't get to speak at all. So what we are going to  
24           do is if you want to speak twice, you can speak now  
25           but then you will be at the back of the line this

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1       evening, so by speaking twice you don't bump  
2       anybody else's opportunity. Or you can wait until  
3       the back of the line -- no. Tonight we start at --  
4       we started at nine o'clock this morning and I can't  
5       promise we are going to go past our 9:30 deadline.  
6       So let's have it be that way; if you speak this  
7       afternoon you are at the back of the line tonight.

8 Still looking for Amy Hines and Marlinda  
9 Moon? Okay. From those who signed up today, Steve  
10 Frishman. Mr. Frishman.

11 MR. FRISHMAN: My name is Steve Frishman  
12 and I'm technical policy coordinator for the state  
13 of Nevada Agency for Nuclear Projects. I have  
14 about a two-page statement --

15 JUDGE FARRAR: What was that?

16 MR. FRISHMAN: Agency for Nuclear  
17 Projects. I have about a two-page statement here.  
18 I prepared a short statement just on one item.  
19 When given your role in this ruling this morning on  
20 the stats motion for 40 years, I think the subject  
21 of this statement, I think I need to elaborate on  
22 it a little.

First of all, I guess I'm here to talk  
about the NRC's 28 year rule rather than the three-  
minute rule, because I don't think you realize and

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1 even in your narrow opinion or narrow ruling what  
2 you have done is you have effectively changed a  
3 section of 10 CR Part 72. This is the subject of  
4 the statement I was going to make and that is that  
5 Part 72 is very specific about twenty-year maximum  
6 permanent term, and the possibility of renewal, and  
7 the possibility of that renewal being pursuant to  
8 the requirements of the rule.

9                   And so this morning, while most of the  
10 discussion going was over, one way or another, over  
11 the concern that the state had about whether it  
12 would get here or not at the time of renewal, and  
13 also the argument by Mr. Silberg about how things  
14 or conditions twenty years from now might be or it  
15 might be speculative to talk about conditions  
16 twenty years from now, and you seemed or you stated  
17 that you were quite taken with that argument. But  
18 for the broader picture, I think you need to look a  
19 little farther into the meaning of Part 72,  
20 paragraph or Section 42, and consider that what you  
21 are effectively doing is changing that rule.  
22 Because if a permit is granted for twenty years,  
23 which you are bound not to give more than twenty in  
24 this narrow proceeding, then what you are doing is  
25 effectively committing the commission twenty years

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1 from the date of that permit to a renewal. And one  
2 of the reasons that or one of the ways you can look  
3 at this, rather than Mr. Silberg's approach to it  
4 being speculative what the condition might be, look  
5 at some of the conditions that are not considered  
6 to be speculative by the staff in its safety  
7 evaluation report.

For example, I know that or I realize that this board has had something to do with some level of approval on this already, and that is in Section 17-1-3, the SER. I'm quoting here. "The business plan forecasts positive cumulative cash flows and a positive return on equity over the 40 year period." And then on the next page, this is the staff's finding. "In sum, the staff finds that the foregoing factors," which includes that business plan, "in combination with the license conditions recited at Section 172 provide reasonable assurance that PFS will have adequate funding to operate the facility."

21                          The operative condition, the one most  
22 important in this consideration, is license  
23 condition 17-3 in the SER. And it requires,  
24 including in the customer service agreement a  
25 provision requiring PFS to not terminate its

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1 license prior to furnishing spent fuel services  
2 covered by the service agreement. Well, since both  
3 the business plan and the service agreement is a  
4 little bit hard for most of us to be able to look  
5 at in detail, what I do conclude is from an ad that  
6 Private Fuel Storage ran in Nuclear Plant Journal,  
7 November/December issue of 2001. One of the  
8 services provided is preparation for outbound  
9 shipment to DOE.

10 So I think what you are doing is, aside  
11 from not being able to predict specific conditions  
12 such as Air Force use of air space twenty years  
13 from now, what you are doing is by allowing the  
14 presumption of a license renewal, you are relying  
15 alliance on things that were given as assurance at  
16 the time of the SER. But that assurance covers the  
17 40-year period. So in effect, what you are doing  
18 is granting a license that memorializes the  
19 presumption that a license renewal will be granted  
20 for twenty years of operation. And what this does  
21 is prejudices the future proceedings of the  
22 commission. And it is a matter that is  
23 inconsistent with its own regulation 72.42. And  
24 what this does is it essentially faces right up to  
25 the duty of the commission to be independent and

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1           objective.

2                 Now, we are no strangers to this. And I  
3           know that you are well aware that we are no  
4           strongers to this. In the last nine months the  
5           three operating regulations have been changed. And  
6           as you are well aware, the governor of Nevada today  
7           issued his notice of disapproval permitted under  
8           the statute. Included in his statement of reasons  
9           is the fact that we had sued both the Environmental  
10          Protection Agency and the Department of Agency for  
11          their arbitrary actions in changing their rules.  
12          And we will sue the Nuclear Regulatory Commission  
13          for the same reason.

14                 So I think in your narrow ruling this  
15          morning, what you have done is set the trail for  
16          the wider presumption that it is okay to change a  
17          rule in this proceeding and that a rule will have  
18          the effect of law unless somebody challenges it. I  
19          think it's your duty to protect both the licensing  
20          board and future licensing boards as well as to not  
21          put the commission in a position where a decision  
22          twenty years from now will be prejudiced, and also  
23          the idea that the commission twenty years from now  
24          and the applicant have no option other than to go  
25          forward because you know, just as we discussed this

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1 morning, you can't get that fuel out of PFS at a  
2 rate really any greater than you put it in. So  
3 whether it is a license renewal or not that is  
4 granted by either the board or the commission, the  
5 provision in Part 72 that would kick in would be  
6 PFS only has to apply for an extension. And the  
7 license cannot be terminated until there is a final  
8 ruling on the extension application.

9                   So it's a question of whether PFS is  
10 going to operate under a renewed license  
11 application for twenty years or through a collusion  
12 between the Nuclear Regulatory Commission and PFS  
13 they operate under a termination proceeding for the  
14 next twenty years, because reality is going to  
15 force one of those two.

16                   I would recommend, and I'm sure that you  
17 have no reason to take me seriously at all, but I  
18 would recommend that this proceeding not go forward  
19 until you make a ruling on whether, in fact, the  
20 purposes of the application can be served in the  
21 twenty year period that was applied for or are you  
22 going to have to go back and recommend to the  
23 commission that they open a proceeding to modify or  
24 revise or amend Part 72 to take care of this  
25 specific case. And I remind you, we are no

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1           strangers to that. Thank you.

2           JUDGE FARRAR: Thank you, sir.

3           Judy Traichel? Is that right?

4           MS. TRAICHEL: Very good. Yes.

5           T-R-A-I-C-H-E-L. My name is Judy Traichel. I'm  
6           the executive director of the Nevada Nuclear Waste  
7           Task Force. We are a public advocacy organization  
8           working in Nevada in opposition to the Yucca  
9           Mountain project. I wanted to start out by saying  
10          that I'm glad that you have established your rule  
11          not to engage in debate with speakers because I  
12          have something to say that I don't want to debate  
13          with you. But I think it is interesting that you  
14          have said this portion is to allow the public to  
15          speak its piece and that you apparently are  
16          exercising tolerance in sitting there, but you are  
17          not going to use what they say in your decision. I  
18          don't like that and I don't want to engage in  
19          debate but I'm here from Nevada and we are here to  
20          learn how licensing works. And we are learning a  
21          lot:

22           JUDGE FARRAR: I hope you will come to  
23          the hearing any time in the next six weeks.

24           MR. TRAICHEL: We will be here.

25           JUDGE FARRAR: We would love to have

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1 | you.

2 MR. TRAICHEL: But I think what you are  
3 hearing from this microphone is in many ways  
4 probably a lot more instructive to you in your  
5 decision than you are going to read out of the  
6 final environmental impact statement. These are  
7 the people who live here. This is their place.  
8 And so I think you should, at least in your own  
9 mind, make an exception to what you have said.

JUDGE FARRAR: I will take up your  
invitation not to debate you by simply -- maybe I  
didn't make it clear. When we come to write a  
decision, by law all we can base it on is the  
evidence that is put in by the witnesses, sponsored  
by the people who have participated in the case.  
Just like any trial. The jury or the judge decides  
based on the evidence. And so that's a limitation  
that is placed upon us. It doesn't devalue what  
you are saying.

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1 Mountain. There's an awful lot of work going on in  
2 Nevada with 80 percent or more of its residents to  
3 defeat that project. And they are terribly careful  
4 in Nevada, when they talk about Yucca Mountain, in  
5 saying that there's been absolutely no decision  
6 made, there's been no application accepted, there  
7 has been no review plan finalized, and that Yucca  
8 Mountain doesn't exist in any way, form, or shape.  
9 In this room it is being talked about as not if,  
10 but when. And I think that is a terrible mistake.

11 One of the things that has happened in  
12 this thing that is going on here is that another  
13 rule that used to be in place no longer is. When  
14 government was out looking for an MRS, or monitored  
15 retrievable storage site, which I guess the  
16 Goshutes played with as well, that could not come  
17 on line or could not be considered until there was  
18 a license issued for a permanent repository. In  
19 that way, you knew where the waste was going. So  
20 when you are hearing people talking about their  
21 fears that this may become a permanent site, I  
22 think their fears are well-founded. Because if  
23 Yucca Mountain is the only place for this waste to  
24 go, and we have already heard that it is going to  
25 be very difficult to get it out of Skull Valley,

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1       then this could very well be a trick or a one-way  
2       stop. And I don't think Yucca Mountain can be  
3       assumed because there's a lot going on to make that  
4       not happen.

5           I also think that the airplane crash  
6       scenario needs to be carefully looked at. At Yucca  
7       Mountain there is also Nellis Air Force Base and  
8       there are frequent crashes there. There was one  
9       very recently that, had you been standing on Yucca  
10      Mountain, you would have had an excellent view of  
11      the entire crash where one of the F-16s, or  
12      whatever it was, went right into a mountain that is  
13      very near that one, carrying two 500-pound bombs  
14      which also exploded immediately on impact when that  
15      hit. The pilot had gotten out and I don't know if  
16      he particularly aimed at that mountain. But I  
17      think the assumption that the pilot can put the  
18      crash where he wants it, is a real stretch.

19           The idea that there is some sort of  
20      crisis where this site is needed or the ridiculous  
21      statement as was once again made by Mr. Silberg  
22      about there being safety in being in one spot  
23      rather than many spots around the country, it's  
24      been alluded to that there's always going to be  
25      waste at those places because if you are making it

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1       while you are moving it, it doesn't wind up in one  
2       spot. And what is being proposed here is just two  
3       new spots; one here in Utah, and one in Nevada. So  
4       I don't think that you gained any security. And I  
5       certainly think that security should be taken in  
6       context and given a lot of weight as far as the  
7       transportation is concerned because I have never  
8       seen the kind of security in any other meeting as I  
9       have seen here where a person can't go get a drink  
10      of water without getting completely wanded. And  
11      there seems to be a clear and present danger in  
12      this room. But when terrorism is talked about as  
13      far as nuclear shipments, it is given kind of short  
14      shrift.

15           So I guess the only other thing I have  
16      where I would love to engage you in debate but I  
17      know you wouldn't do it would be the question that  
18      we ask the Department of Energy all the time: What  
19      is it that would make you say no to a license to  
20      this facility? Because if you watch rules being  
21      changed or if you watch the way these things go on,  
22      it is very hard to see what it would be that would  
23      make you say no. Because many of us here in the  
24      audience see a lot of things, but I don't think  
25      that they are going to make you say no. Thank you.

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1                   JUDGE FARRAR: You have been so pleasant  
2                   in not debating me, I will respond to that last  
3                   one. What would make us say no, for example, would  
4                   be if Ms. Chancellor succeeds with her evidence on  
5                   the seismic or aircraft issues. And that remains  
6                   to be seen whether she does that. We have no  
7                   interest in the Applicant's proposal one way or the  
8                   other. We are assigned to the case and if the  
9                   Applicant wins, good for him. If the State wins,  
10                  good for them. That's how we view our role in  
11                  life. But thank you, Ms. Traichel, for your  
12                  remarks.

13                  Tommy Lee?

14                  MR. LEE: Good afternoon Mr. Chairman  
15                  and members of the NRC committee and members of  
16                  this audience. I appreciate the opportunity for a  
17                  chance to speak in the PFS proposal. Let me just  
18                  say that I'm just a resident of Alta, Utah and I'm  
19                  just speaking for myself. However, I was employed  
20                  at Kelly Air Force Base in San Antonio, Texas.  
21                  Back in 1995 there was a fateful decision made by  
22                  the base realignment and closure committee to close  
23                  Kelly Air Force Base, along with an Air Force base  
24                  in San Fernando, California. There are three  
25                  remaining centers across the United States. One of

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1       those places is Hill Air Force Base, which is where  
2       I'm presently at. And again I'm not speaking for  
3       Hill Air Force Base. Just speaking for myself.

4                   One of the things I have been informed  
5       that saved Hill Air Force Base from closure back in  
6       1995 and the upcoming base closure that has been  
7       approved a few more years from now is that Hill Air  
8       Force Base has a unique resource and that is the  
9       Utah test and training range out in the West Desert  
10      of Utah. With the proposed project in Skull Valley  
11      by PFS, that may jeopardize the efforts of our war  
12      fighters and pilots as they perform their training  
13      duties and also their additional assignments in  
14      trying to maintain their force readiness, as seen  
15      in the current campaign in Afghanistan. I  
16      apologize for my nervousness here, but let me ask  
17      that they should carefully look at the situation of  
18      any type of accidents that may befall the PFS  
19      facility on the Goshutes reservation should that  
20      proposal go forward.

21                  I would also like to touch upon the  
22      connection between the Yucca Mountain project in  
23      Nevada and the PFS project in Utah. They are quite  
24      intertwined. If one goes, the other is also about  
25      to fall. And in summary it comes down to this: If

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1       the Yucca Mountain project wins and PFS proposal  
2       loses, Utah loses. Why? Because that nuclear  
3       waste, the spent rods, will have to go through Utah  
4       somehow, either through trains or trucks as it  
5       travels across the United States from the east and  
6       the Midwest, to get to Nevada. Now, if the Yucca  
7       Mountain proposal loses and the PFS projects wins,  
8       obviously Utah loses again. And in that case, not  
9       only that, but the PFS project then in defacto  
10      becomes permanent storage. If Yucca Mountain wins  
11      and PFS proposal wins, obviously that is a  
12      situation where Utah loses. The best outcome is  
13      for both proposals to be re-examined and for that  
14      to allow Utah to win in that count.

15                  It's interesting to note that several  
16       years ago the Federal Government, I don't know if  
17       it was the Department of Interior or Department of  
18       Energy, came up with the clever idea that our  
19       Indian reservations, America's first nations,  
20       should be considered sovereign nations and  
21       therefore they are able to enter into agreements.  
22                  It is just one way a consortium of the private  
23       utility companies is headed by PFS. That's the  
24       state that we are in today. I would urge the  
25       committee here to carefully look at the evidence

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1 and think what the stakeholders here in Utah  
2 consider to be the appropriate action. Thank you  
3 for your time.

4 JUDGE FARRAR: Thank you, Mr. Lee.  
5 There is no need to apologize for your nervousness.  
6 Your remarks were very well thought out. Thank  
7 you.

8 Thomas See?

9 MR. SEE: Good afternoon, gentlemen on  
10 the committee, and good afternoon friends from Utah  
11 and Nevada. My name is Tom See. That was just Tom  
12 Lee. Mine is See, S-E-E. Not Tom A, not Tom B but  
13 Tom See. I represent myself.

14 And I have lived in Skull Valley for 39  
15 years of my adult life. And I have a chemical  
16 zoology bachelor of science degree from the  
17 University of Nevada. I served five years as an  
18 officer in the Army Medical Service Corps. I  
19 retired after 30 years as a chemical biological  
20 research test officer for Dugway proving grounds.  
21 I oppose and would hope that you, the NRC  
22 Commission, the BLM, and the Transportation Board  
23 deny the Private Fuel Storage proposal.

24 Before I go any further, I have to talk  
25 to my friends on both sides of the room. They

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1 always ask me which side I'm on. I want it  
2 understood that I believe the land in Skull Valley  
3 belongs to the Indians and they should do with it  
4 what they want to. But I have other feelings on  
5 this issue than just the reservation itself. I  
6 visited the question of safety, radiation safety  
7 for the storage facility. I have talked to a  
8 gentleman from the University of Utah who is in  
9 favor of the project, the storage on the Indian  
10 reservation. And he tells me that with  
11 calculations we can come up with from the  
12 environmental impact statement, not the draft, from  
13 the draft he calculated that the Indians on the  
14 reservation would get the equivalent of a chest  
15 X-ray every nine years. Recalculating with what he  
16 has from the environmental impact statement, it's  
17 possibly three years. That's the equivalent of a  
18 chest X-ray every three years for those who live up  
19 above. For the people who live down where Garth  
20 Bear or Art Johnson used to live it would be the  
21 equivalent of a chest X-ray every year. This seems  
22 amazing to me because we have 4000 casks that we  
23 put out there at the end of this thing. But they  
24 are eleven feet in diameter, twenty feet tall, and  
25 they are stacked four in a row. Well, eight in a

1       row. The ones behind that, they only have five  
2       feet of space. So when you look at the reservation  
3       it's a direct line of sight or light or it would go  
4       that direction and it falls off ten times as the  
5       distance improves, gets greater.

6                  I live a distance of seven miles from  
7       the reservation as the crow flies. I have a large  
8       fold in the mountain between me and them, and I'm  
9       safe. Well, it is safe here in Utah, safe here in  
10      the west. How come it isn't safe in the east where  
11      it is at right now? I believe you should deny the  
12      Private Fuel Storage proposal on grounds that the  
13      consideration of Alternate 2, considered but not  
14      addressed further. That it says in there, in the  
15      environmental impact statement, number two,  
16      "Shipment of spent nuclear fuel from reactor sites  
17      without sufficient storage space to the reactor  
18      sites with additional spent nuclear fuel storage  
19      capacity." That's what I think should have been  
20      looked into.

21                  In the Tooele County information  
22      pamphlet they pulled out, about a ten-page  
23      bulletin, they are in favor of support for the  
24      repository, Tooele County Commission is in favor of  
25      support for the storage in Skull Valley. They put

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1 out a little sheet that has the information. It  
2 says in there the government said that the spent  
3 nuclear fuel could safely stay where it is for a  
4 hundred years. I don't know whether that is true  
5 or not. Or it might be that the reason they want  
6 to move it is a state says that it has to be moved.  
7 If a state legislature says it has to be moved,  
8 Utah's legislature ought to be considered as having  
9 a negative effect on that other state's saying that  
10 it has to be shipped out here and stored in Utah.  
11 And if left in place or taken from one facility and  
12 sent to the other, shorter rail lines would be  
13 used. No railroad would have to be built in Skull  
14 Valley. It would pass by fewer people when it is  
15 in the transportation cask stage, and therefore  
16 less people would be exposed. If it's safe to  
17 store it here, it is safe to store it there.

18 There would be no reason to build an  
19 unload facility by Interstate 80 or on the spur of  
20 the railroad because it would be loaded at the  
21 facility, which has to take place now to ship it to  
22 Utah. It would be unloaded at another facility  
23 which already has a loading facility; it ought to  
24 be able to unload it, too. It could be put into  
25 the storage cask in cement at that place. No

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1 environmental effect in Skull Valley whatsoever.  
2 Plus, I believe that if you do this, deny the full  
3 storage proposal, it will speed up a decision on  
4 reprocessing of nuclear fuel. Thirty percent, I'm  
5 told, of what comes out of the reactors could be  
6 reprocessed and used again.

7 Now, if you had \$300 you don't throw it  
8 away. So you could start reprocessing and get  
9 that, get a return. I believe that if you deny  
10 this, that Congress will get on the ball, after 17  
11 years of trying to figure out what they are going  
12 to do, and do something. It's their  
13 responsibility. We ought to kick them in the fanny  
14 and make them do it. Thank you.

15 JUDGE FARRAR: Thank you very much, Mr.  
16 See. Kevin Stanfield? James Webster? Heidi --  
17 and I can't read the last name? Cherry Wong?

18 MS. WONG: Hi. I'm Cherry Wong and I  
19 came as a citizen of Utah and the United States  
20 because a lot of citizens are not going to come.  
21 And I just feel compelled that I must take the  
22 opportunity to have my say even if it is not going  
23 to impact the licensing procedure, which it sounds  
24 to me like it probably will not, if you are  
25 considering the licensing and only considering the

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1       technical problems that will be considered. I do  
2       feel offended that although we are given an  
3       opportunity to speak, we are not really going to be  
4       a part of the decision. However, what else can we  
5       do?

6                 Now, I have one point to make, only.  
7       And that is that I feel that the idea of an  
8       above-ground facility is unsound. I feel that it  
9       was unsound in the beginning. Since 9-11 it is  
10      even more dangerous and unsound. That is an idea  
11      that probably came up by commercial interests who  
12      had a problem they needed to solve. They need to  
13      move this material because the government promised  
14      them that they would find a place for it. And the  
15      government hasn't been the one who really came up  
16      with the idea of this temporary above-ground  
17      storage. Consider the whole idea of that Goshutes  
18      facility and you will find that we never should  
19      have started on this route. I thank you very much  
20      for this opportunity to talk to you. Thank you.

21                 JUDGE FARRAR: Thank you, Ms. Wong. I  
22      might just say again, in case it isn't clear, the  
23      Commission's rules allow parties to come in to be  
24      part of the proceeding like the state has done.  
25      And over a several year period the state has raised

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1       a great many, almost all the arguments imaginable  
2       that you could raise against this. And we are now  
3       down to these last few. And years ago the  
4       Commission passed a rule that said, Well, a lot of  
5       people don't have the wherewithal to come in and  
6       hire a lawyer and be part of the full case but they  
7       should have an opportunity to speak their piece.  
8       An opportunity that we would hear and the parties  
9       would hear, that would be transcribed for anyone to  
10      review, policy makers, members of Congress,  
11      political figures. So your statements are part of  
12      the record. But it's just not the same part of the  
13      record as the parties who are participating in  
14      full. But we certainly take to heart what you have  
15      to say.

16                   Carrie Norton?

17                   MS. NORTON: Good afternoon. Can you  
18      hear me?

19                   JUDGE FARRAR: Yes.

20                   MS. NORTON: My name is Carrie Norton.  
21      I live in Salt Lake City. I have since 1980. I am  
22      here representing myself and my husband and my  
23      extended and nuclear family who all reside here in  
24      Salt Lake City, as well.

25                   I oppose the storage of nuclear waste at

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1       Skull Valley Band of Goshutes reservation. I have  
2       been involved with the issue pretty much since its  
3       inception as far as paying attention to it as a  
4       citizen is concerned. I oppose it for many  
5       reasons. First of all, the people of Utah do not  
6       want spent fuel rods stored here. We understand  
7       how radioactivity affects things and we don't want  
8       it affecting us.

9                   Number two, contrary to popular Band-  
10      wagon propaganda, nuclear power is not clean  
11      energy, as we see from the PFS proposal to bring  
12      and hoard the stuff here. We have no guarantee the  
13      stuff will ever be moved. As this lady from Nevada  
14      points out, Yucca Mountain isn't even an absolute  
15      guarantee. I do not believe communities along the  
16      transportation route are prepared for adequate  
17      emergency response. And a lot of this also, as far  
18      as the issue itself is concerned, this overlaps  
19      other things that we are dealing with at the same  
20      time; emergency response teams being prepared as  
21      far as the Envirocare proposal is concerned, as far  
22      as chemical weapons incinerator is concerned, and  
23      such things. A lot of those things overlap and I  
24      find that often most times responses as to  
25      preparation, emergency preparation are inadequate.

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1 And we ask questions in hearings, we are often told  
2 to come back later. They don't have the answers  
3 for us.

I have no faith in PFS as a limited liability company and their promises to insure my safety or that of others. I do not trust that the vast complex, the labyrinth of government bureaucracies involved can insure mine or anyone else's safety.

We here in Utah don't use nuclear power.

The stuff should stay where it is created. Many people have pointed out if it is so safe and able to be transported across the country, then it is safe enough to stay right where they use it. We need to be promoting renewable energy, not nonrenewable. Nuclear is a finite form of energy. And by accepting this waste is a statement saying that it is okay to keep using it and we will take it out here and become the sacrifice zone for the country, maybe even extended beyond our borders. When, really, in reality we need to stop using nuclear energy if we are going to be able to move into a future where we all can live.

24 Maybe what I'm saying sounds like  
25 idealism or just concepts that are out there in the

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1 air, you know, that everybody has heard before.  
2 But the fact of the matter is that my beliefs are  
3 based in my values and what is important to me, and  
4 what is important to me is the health and safety of  
5 people and the environment that we live in. You  
6 have to start somewhere, and ideas are usually  
7 where things start. And the ideas are out there,  
8 but the government, our government, needs to  
9 institute the ideas as reality.

10 Also, the bombing range proximity was  
11 mentioned. You know, there are crashed F-16s out  
12 there near the mountain ranges. There are  
13 pictures. I don't have them, but they exist. You  
14 may have seen them. I wouldn't want one of those  
15 planes to crash into that storage facility. While  
16 I hate to use this line of argument again, a  
17 terrorist target. We have heard it already.

18 My job, I do GIS work. If you are all  
19 familiar with GIS, it is computer analysis of  
20 geographic data. And so basically I'm a  
21 cartographer but I use a computer instead of a pen  
22 to draw my maps. And I have here a very  
23 preliminary map of transportation routes in Utah,  
24 both rail and road, using data from DSRI and from  
25 the U.S. Census Bureau. And the map, again, is

1 very preliminary. I did this just this morning.  
2  
3 I'm sure that many of the routes I have chosen will  
4 not be used. But that is information that I will  
5 have to locate later on and bring in a more  
finalized map.

What I have done is along each of the roads and rail corridors that may be used, I have buffered either side of the road with a half mile, so there is a full mile buffer with the road in the center. And then on top of that, I overlaid census tracks and merged the files together and came up with over 2 million people in Utah who live a half mile on either side of these roads. And that's simply in Utah. With the greatest concentration, of course, being in the metropolitan areas. And I'm certain that that number may lessen a slight amount, but not too much more. And I will be giving this to a group that I support, Heal Utah, so that they may have this information. And I will make sure that you folks get a copy later on.

21 . And so in closing, I want to say that  
22 the greatest tragedy of this entire proposal is the  
23 fact that the Skull Valley Band of Goshutes, the  
24 people, have been ripped apart. And it's really  
25 obvious to me to see who is trying to do the right

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1       thing in their heart and who is interested in  
2       money. And to me money is not everything. You  
3       can't eat a dollar. All you can do is eat a  
4       vegetable. And if it is radioactive, well, you  
5       won't be much longer in this world, right? So I  
6       oppose the PFS proposal to bring their waste  
7       generated from this destructively unclean power  
8       generation into my home. Thank you very much.

14                   Why don't we take a break until 4:30.  
15                  We said we would be here until 5:00, with the  
16                  option to leave if no one had or if there was no  
17                  one waiting to speak. But we will come back at  
18                  4:30 in case we have any late arrivals. Thank you.

19 (A break was taken.)

20 JUDGE FARRAR: We were ready to go home  
21 for the afternoon about ten minutes ago. We  
22 thought we might wait in case people left work  
23 early and thought we would still be here at 5:00.  
24 I did see people come in. Were any of those people  
25 who wanted to speak?

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1 MS. GRUBAGH-LITTIG: Did you have to  
2 pre-register to speak?

3 JUDGE FARRAR: You had to pre-register  
4 to be sure you had an opportunity. But as long as  
5 we are here and you are here and it's not five  
6 o'clock, why don't you speak.

7 MS. GRUBAUGH-LITTIG: My name is Pamela  
8 Grubach-Littig.

9 JUDGE FARRAR: I have a court reporter  
10 who does not accept that unless it is spelled.

11 MS. GRUBAUGH-LITTIG: It is  
12 G-R-U-B-A-U-G-H, hyphen, L-I-T-T-I-G. And I'm a  
13 resident of Salt Lake City. And I am very much  
14 opposed to the nuclear waste going in the West  
15 Desert. I am very, very concerned about the  
16 transportation corridor. I think that's a really  
17 -- it's just a misrepresentation and it's going to  
18 go through a lot of major cities and I just don't  
19 think that folks are aware of the transportation  
20 issue and I just want you to know that I am opposed  
21 to it. Thank you.

22 JUDGE FARRAR: Thank you for taking the  
23 time to share that with us. Is there anyone else,  
24 registered or unregistered, who would like the  
25 opportunity to -- oh, and thank you. Since you

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1 came in late, you do not know that you made the  
2 shortest statement of the day. And I have been  
3 having trouble with all these good people all  
4 afternoon keeping them to their three minute time  
5 limit. So you are my favorite appearee today.

6                    Anyone else? Yes, ma'am.

7 MS. KRAUSE: Mine will be shorter. My  
8 name is Teddie, T-E-D-D-I-E, Krause, K-R-A-U-S-E.  
9 And I also am opposed to the nuclear waste  
10 disposal. Especially I think it is dangerous for  
11 the people who live in the Tooele area. I really  
12 don't think it is fair to them at all to have all  
13 of this hazardous waste stored there so close to  
14 them and their children and their families. And I  
15 live here in Salt Lake City on Capitol Hill.

16 That's all. Thank you.

17 JUDGE FARRAR: I'll make a deal with you

18 two. We had a deal that people couldn't speak both

19 this afternoon and tonight. Would you both come

20 tonight and make the first two statements and get

21 us off to a good start? How much do I have to pay

22 you for that?

23 Yes, sir?

24 MR. PARKER: I'll make a short  
25 statement. My name is Mike Parker. I have a

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1 concern. First let me say that I support nuclear  
2 energy and I don't believe in the  
3 not-in-my-backyard approach that so many people  
4 espouse. But I think the siting should be based on  
5 technical merit, not on political issues. And I  
6 suspect, and I can't say for a fact because I'm not  
7 part of this company, but I suspect that the reason  
8 that they are looking at Indian land is because  
9 they can bypass EPA laws as well as probably  
10 oversight of governmental agencies. And I don't  
11 believe that that's the way something this  
12 important should be decided on. Thank you.

13 JUDGE FARRAR: Thank you, Mr. Parker.  
14 Anybody else? I see people here in the audience  
15 who have not spoken, and so this is your  
16 opportunity. Don't be nervous. One fellow said he  
17 was nervous and made a very nice presentation. So  
18 don't feel like you should --

19 MS. ALLEN: I'm Tiffiny Allen with the  
20 Skull Valley Band of Goshutes. I'm a member of the  
21 tribe. I have a lot of issues and I wish you guys  
22 would take this into consideration. Our tribe out  
23 there is small. There's a lot of issues out there.  
24 And our government can't even take care of the  
25 problem. What makes you think that you guys can

1 license this and have our tribe take care of the  
2 problem? We can't -- if we can't settle our own  
3 little teeny problems, we can't settle this big --  
4 we can't take care of it. There is nothing we can  
5 do.

6 The tribal members out there are not  
7 educated. PFS said they wanted the tribal, some of  
8 the tribal members to be out there going into jobs.  
9 But the members are not all educated on it. So I'm  
10 opposing this because our government is not -- I  
11 mean, we are all falling apart. And I know if the  
12 United States government had a big issue, they  
13 would take that into consideration and fix the  
14 problem before they moved on. Well, we don't have  
15 a government. We don't have a leader. In fact, we  
16 don't have leadership out there. And that's what  
17 we need before we move on. And I want you people  
18 here to take that into consideration and not  
19 license the tribe or PFS for this nuclear storage  
20 facility.

21 . That's all I have to say right now. But  
22 there's more little issues out there like for  
23 instance we have water issues, that has to be taken  
24 care of before PFS moves in and tries to, you know,  
25 make the storage facility work. Our water is --

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1 well, way back, and I don't know about now, but it  
2 has been contaminated. And I don't know about  
3 today. Nobody even goes out there and checks it.  
4 I don't know if they do or they don't. But I am a  
5 member and I'm kind of worried about all the people  
6 out there because there are people that have health  
7 issues and it could be from the water. Nobody  
8 knows. Nobody has actually ever said anything  
9 about it. The chairman, he keeps his mouth shut.  
10 It is like hush-hush. Nobody can ever get ahold of  
11 him. Nobody knows where he is at. There's big  
12 issues right now with the tribal government. And  
13 that has to be taken care of before a big facility  
14 like this moves in on the reservation. And I hope  
15 you guys take all this into consideration before  
16 you actually license PFS for this facility.

17 JUDGE FARRAR: Thank you. Thank you  
18 very much. Let me take just a moment's break here.

19 Ms. Allen, we appreciate you making this  
20 statement. Thank you. I see some of your friends  
21 there I haven't seen up here. This is an  
22 opportunity.

23 MR. BEAR: Thank you for your time. My  
24 name is Blaine Vernon Bear and I'm an enrolled  
25 member of the Skull Valley Band of Goshutes and I'm

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1 here on behalf of myself and my kids. There's a  
2 lot of concern on this reservation since this came  
3 about here some years back. And throughout the  
4 years, the tribe has went through a lot of changes  
5 in just recently in the chairman and vice chairman  
6 and so on. Now my concern is we got two elected  
7 officials, two parties of elected officials there.  
8 And then the same as Tiffiny has said, if we cannot  
9 control our own government out there on the  
10 reservation amongst the Goshutes, what makes you  
11 think that we can operate this facility out there?

12 And there's EPA. As it comes by, we do  
13 fall under some guidelines there. Our water, our  
14 fielding station out there now and so far the open  
15 dumping. There's a lot of things that we have to  
16 fall under. And we, as people, the former  
17 committee and our new committee has failed to see  
18 what goes on on the reservation and we are not up  
19 to guidelines on this. And as Tiffiny has said,  
20 there's people out there with health problems and  
21 it's coming from this water problem of our tanks.

22 Now, I was raised on the reservation  
23 until I was 18 and then I left the reservation and  
24 went seeking jobs elsewhere. And now I currently  
25 reside here in Salt Lake with a company here. But

1           that's what you guys ought to -- that's what ought  
2           to come to mind is that we can't control our own  
3           government, so what makes you think we can control  
4           this facility as a tribe? So please take that into  
5           consideration.

9 MS. ALLEN: Thank you, committee, for  
10 letting me speak here. I really didn't have --

11 JUDGE FARRAR: Can't speak until you  
12 give the court reporter your name.

13 MS. ALLEN: Marie Allen. Former vice  
14 chair for the Skull Valley Band of Goshutes. And I  
15 did sign that lease agreement, which I'm sorry that  
16 I did that due to the fact that we do have tribal  
17 problems on that reservation. And for my thing is  
18 that for once I would like to ask you guys a  
19 question. On your books and stuff you got there,  
20 your volumes, your application, I want to know if  
21 you guys charge people for asking to look at those  
22 applications.

23                           JUDGE FARRAR: We are not in that  
24 business. But the staff -- all we do is judge  
25 cases that come before us. But maybe the staff

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1           would respond to that.

2           MR. WISEMAN: I know that the  
3           application is available in the Commission's public  
4           document room. And I believe that we have those.  
5           If you want a copy of that, because it is  
6           voluminous, they may charge for that. I don't know  
7           for sure if they charge or not. But I believe that  
8           for some documents they do charge.

9           MS. ALLEN: Okay. Because the  
10          chairman, Leon Bear, is charging me \$1800 for those  
11          books. And if that is what you guys are going to  
12          do, I would like to know why I'm getting charged  
13          \$1800.

14          MR. WISEMAN: I'm sorry. What chairman  
15          Bear does for you is different from what the --

16          MS. ALLEN: Well, what I understand is  
17          that John Donnell said that I didn't have to be  
18          charged for those books.

19          MR. WISEMAN: I can give you the address  
20          and phone number for the public document room and  
21          you can call them and find out how much it would  
22          cost to get a copy of the document.

23          MS. ALLEN: Okay. And also, my  
24          question is I did or I was for the Private Fuel  
25          Storage to bring the nuclear waste to our

1 reservation. Now I oppose it because of  
2 environmental problems we have out there on the  
3 reservation. We have no environmental laws or  
4 procedures to go by. And that's what we were  
5 trying to adopt while I was in position. But we  
6 don't have any. For my experience of being on that  
7 tribal council, we make things as we go along.  
8 Like if something goes wrong or something that  
9 needs attention, we work on that. That's why I  
10 said I'm sorry that for my people we have problems.  
11 And for spiritual, I don't believe that it's good  
12 to put that on our reservation because, for us, we  
13 would be losing a lot of native spiritual herbs and  
14 things like that. And, plus, a disrespect for our  
15 Native American church. And I don't think that  
16 would be good because we have feathers that we take  
17 care of that are very spiritual to us and, just  
18 like other people say, you have to think about the  
19 people and that ground and for our own people.  
20 Sometimes our people, they can't really say much  
21 for themselves and they can't come here because  
22 they are shy, embarrassed to come. But I just want  
23 to let you guys know that I do oppose this  
24 facility. And that's all I have to say for now.

25 JUDGE FARRAR: Ms. Allen, we have seen

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1       your name on a number of the pleadings and  
2       documents and I'm happy to or pleased to meet you  
3       after seeing your name all this time.

4                   Mr. Wiseman, can you take it upon  
5       yourself to make sure that either through the Utah  
6       public document room or the staff's public document  
7       room or some source, Ms. Allen gets either free, if  
8       it is free, or whatever the reasonable copying cost  
9       is, a copy of the documents she needs?

10                  MR. WISEMAN: Yes, I will do that, your  
11       Honor.

12                  MS. ALLEN: And there's one more  
13       thing --

14                  JUDGE FARRAR: These documents are  
15       available I think at the University of Utah Law  
16       Library, they may have them where you can go read  
17       them and they would charge you a copying fee.

18                  MS. ALLEN: I understand that.

19                  JUDGE FARRAR: But the D.C. area,  
20       there's a process for getting these documents at a  
21       reasonable -- how long is this document?

22                  MR. WISEMAN: I don't know how long the  
23       application is. Perhaps Mr. Donnell can tell us.

24                  JUDGE LAM: You can access the internet.  
25       There's a web site that should be free.

1                   MR. SILBERG: The application itself, as  
2 I recall, the safety part of the application is two  
3 volumes. The environmental report is another  
4 volume. There are multiple volumes of calculations  
5 which have been submitted to the NRC. Obviously  
6 all the licensing correspondence, depending on the  
7 scope, you could be three volumes or longer.

8                   JUDGE FARRAR: And they could be  
9 thousands of pages?

10                  MR. SILBERG: At least.

11                  JUDGE FARRAR: But you might not need,  
12 for your purposes, all of them.

13                  MS. ALLEN: I was getting them and some  
14 of the tribal members would come to the house and  
15 they would or we would talk about them and review  
16 them and talk to them about the applications. So  
17 that's why I wanted to make a point that they do  
18 come to the house. They can't go to the library  
19 just like you say, and they don't have the  
20 internet. And then all the sudden it quit coming.  
21 I did get the application while I was in position,  
22 but all of the sudden it stopped. And I didn't  
23 understand. But I do understand as for myself, I  
24 would like to know more about it and how can I do  
25 that when I don't even have it? And plus the

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1       tribal members come knocking at my door and want to  
2       know what is going on.

3                     JUDGE FARRAR: For reasons known to the  
4       parties, let me suggest that rather than me talking  
5       to you any longer, you deal with Mr. Wiseman from  
6       the staff.

7                     MS. ALLEN: I can probably do that, but  
8       I'm sure they will not cooperate with me.

9                     JUDGE FARRAR: I can assure you Mr.  
10      Wiseman will cooperate. He doesn't work for me,  
11      but I know the position the staff takes. And while  
12      I can't promise you he can do things for you for  
13      free, they have people there who can help guide you  
14      through the system.

15                    MS. ALLEN: Okay. But as I was saying,  
16      I don't want it there. And if it is going to be  
17      this way, I want my name off all those documents.  
18      The documentation that I signed, I would like my  
19      name off of those lists. And that's all I got to  
20      say.

21                    JUDGE FARRAR: We appreciate your saying  
22      it. You had a friend who kept coming up. Do you  
23      want to talk, also?

24                    MR. ALLEN: I believe that --

25                    JUDGE FARRAR: I need your name.

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1 MR. ALLEN: I'm Rex Allen. I am the  
2 Skull Valley Band of Goshutes tribal secretary. I  
3 want to make that clear. And also the NRC and the  
4 Atomic Safety Board should recognize my name on the  
5 application and also on other documentation. While  
6 I'm just here, I don't know if you guys are going  
7 to address this, because I feel like I should speak  
8 later and I'm just here just to not support NRC or  
9 the Atomic Safety Board's application on Private  
10 Fuel Storage. And I will address this later  
11 because I will be on the list, if possible.

12 JUDGE FARRAR: For this evening?

13 MR. ALLEN: Yes.

14 JUDGE FARRAR: Got it.

15 MR. ALLEN: And I support the state of  
16 Utah, and the governor.

17 JUDGE FARRAR: Thank you, Mr. Allen. I  
18 think that's everybody. If I was an auctioneer I'd  
19 do going, going --

20 MR. HOOPIIANA: Can I --

JUDGE FARRAR: No. You were up before.

22 MR. HOOPIIANA: So I can't say anything  
23 else? That's all I can say?

24 JUDGE FARRAR: How long will it take  
25 you?

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1                           MR. HOOPIIANA: Just a couple seconds.  
2       It was just brought to my attention that the  
3       storage facility down at Yucca Mountain has spent  
4       twenty years studying that particular site for a  
5       permanent storage facility and there hasn't been  
6       any -- I mean, the issue is the property that we  
7       have actually applied for out there and that we now  
8       are in control of we have also applied with the  
9       Utah State water rights division and have been  
10      granted water for that area. And there was a  
11      statement earlier that I didn't hear that they said  
12      if one of those containers falls over and is on its  
13      side for 48 hours and isn't recognized for some  
14      reason, that that could actually contaminate the  
15      ground water. And we will be down-gradient from  
16      that water. So the underground water is really an  
17      issue. I would dare say that until there's a  
18      determination on the ground water out there, I mean  
19      that could even -- you know, we don't really know  
20      what direction that water is going. But we are  
21      actually to the north end of the Goshutes, which is  
22      down where the lake is. So you have the Goshutes  
23      up here and we are down here and the lake is down  
24      here. So if there is an issue with the ground  
25      water, we would be directly affected. And I wasn't

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1       aware of that until I was addressed by a  
2       hydrologist out in the hall.

3                     JUDGE FARRAR: Thank you. That's it.

4       We will be back here at seven o'clock tonight until  
5       9:30, if any of you want to attend that session,  
6       also. Thank you for your thoughtfulness.

7                     (This portion of the limited  
8       appearances concluded at 4:55 p.m.)

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1 April 8, 2002

7:00 p.m.

2 PROCEEDINGS  
3

4 JUDGE FARRAR: Folks, we've been here  
5 since nine o'clock this morning and we're supposed  
6 to keep it running on time because there's a huge  
7 crowd of people outside. And I know that the Mayor  
8 spoke to the group and he's scheduled to be our  
9 first speaker here, so I'm going to wait a few  
10 minutes. We were going to start at 7:00, so if you  
11 don't mind, we'll wait a few minutes before we  
12 start.

13 Just in case the Mayor doesn't get here  
14 right away, is Jason Groenewold here?

15 UNIDENTIFIED MALE: The Mayor is here.

16 JUDGE FARRAR: Folks, we're going to  
17 start in about a minute here. Good evening,  
18 everyone. We started here at 9:00 this morning. I  
19 apologize. When we put out the notice for this  
20 meeting we tried to indicate that since -- because  
21 there's been a lot of changes these days that there  
22 would be security people and we asked people to get  
23 here early. So a lot of people are not able to get  
24 in yet, but that's the price of living in these  
25 times.

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1                   This morning we started the preliminary  
2                   stages of the full evidentiary hearing and the full  
3                   scale trial on the merits of several environmental  
4                   and safety issues related to the request of an  
5                   organization called Private Fuel Storage for  
6                   Nuclear Regulatory Commission approval, a proposal  
7                   to build on the reservation of the Skull Valley  
8                   Band of Goshute Indians a facility for the  
9                   temporary storage of spent fuel rods from  
10                  commercial nuclear power plants.

11                  We up here are administrative judges  
12                  appointed by the Commissioners of the Nuclear  
13                  Regulatory Commission. Many years ago Congress,  
14                  recognizing that these were complex proceedings,  
15                  decided to have three-person boards of judges,  
16                  including two technical members, my colleagues Dr.  
17                  Jerry Kline, an environmental scientist, and Dr.  
18                  Peter Lam, a nuclear engineer, and we have a fourth  
19                  member here, as you can see, that's Judge Paul  
20                  Bollwerk, who has over the last few years been the  
21                  Chairman of this Board. Because of the increased  
22                  workload he has part of the proceeding, the board  
23                  he chairs has departed the proceeding and the board  
24                  I chair has the rest of it.

25                  The four issues we're dealing with, and

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1       we'll be starting with the witnesses tomorrow, is  
2       the threat of aircraft accidents from the military  
3       operations in the West Desert and we'll end the  
4       hearing with two weeks on seismic concerns and in  
5       between have a week on two environmental issues  
6       dealing with hydrology and the location of a rail  
7       line.

8                   So trial starts tomorrow. This morning  
9       we had some very eloquent opening statements by the  
10      lawyers, an hour and-a-half of those and an hour  
11      and-a-half of legal arguments, on whether certain  
12      pieces of evidence should or should not come into  
13      the hearing tomorrow. Then we had three hours of  
14      statements like you will make tonight, we had three  
15      hours of statements this afternoon which were of  
16      great interest to us, and we were delighted that  
17      you all are here tonight to share your feelings  
18      with us.

19                  We're supposed to be here from 7:00 to  
20      9:30, that's 150 minutes. If 50 people speak,  
21      that's three minutes each. We were able to be very  
22      liberal this afternoon because we didn't have that  
23      many people. Tonight, not as a courtesy to you  
24      from us, but as a courtesy to your neighbors we're  
25      going to hold you to the three minutes because

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1       otherwise you will get to speak and somebody else  
2       won't. So if you have a long prepared statement, I  
3       ask you now to start thinking about how you could  
4       summarize it and make your points in the three  
5       minutes and turn in the written statement or submit  
6       the written statement to us later. But you're not  
7       being considerate of us, you're being considerate  
8       of your neighbors.

9                   We have with us as the first speaker  
10      Mayor Anderson. I don't want to limit him to three  
11      minutes because he does represent not only himself,  
12      but the rest of the citizenry. I approach it with  
13      some intrepidation because any politician I know in  
14      Washington would say he needed 35 minutes to make  
15      his point and the Mayor says he's going to be  
16      fairly brief. And so, Mayor, we as citizens  
17      appreciate that. During the day you'll see the  
18      tables here. These are some representatives of the  
19      key parties. Mr. Silberg, why don't you introduce  
20      yourself.

21                  MR. SILBERG: My name is Jay Silberg.  
22                  I'm an attorney representing Private Fuel Storage.  
23                  With me here at the table is John Donnell, the  
24                  director for Private Fuel Storage.

25                  MR. WISEMAN: I'm Robert Wiseman. I

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1 represent the NRC staff.

2 MS. NIELSEN: Diane Nielsen, the  
3 Executive Director of the Utah Department of  
4 Environmental Quality representing the State of  
5 Utah.

6 JUDGE FARRAR: I want to say this  
7 morning --

8 (Applause.)

9 JUDGE FARRAR: -- you're making Mr.  
10 Silberg feel bad, you didn't applaud for him.

11 The State's lawyers are all off. I  
12 would ask in the interest of time, try to not have  
13 any applause. I know you'll be tempted at times,  
14 but let's try to get through this so that everybody  
15 gets a chance.

16 In terms of signs, make sure your signs  
17 don't block the view of the person behind you. Mr.  
18 Mayor, go ahead.

19 MAYOR ANDERSON: And I certainly  
20 appreciate the opportunity tonight. We trust that  
21 you, in making the decisions and recommendations  
22 you will be making, will conscientiously take into  
23 account the very, very serious concerns that we  
24 have, as well as the science and the tremendous  
25 potential adverse impacts that could be felt not

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1       only by our communities today, but for generations  
2       to come.

3                     Several of the points that I will  
4       emphasize tonight were raised in the Draft  
5       Environmental Impact Statement hearing on August  
6       21st, 2000. Those issues have not, unfortunately,  
7       been sufficiently addressed in the Final  
8       Environmental Impact Statement, making that  
9       document incomplete and incapable of providing a  
10      full picture of the dangers that are posed by the  
11      Private Fuel Storage proposal.

12                  First of all, and I will try to be brief  
13      and I will try to get right to what we believe are  
14      the vital points. This high-level waste presents  
15      significant health and financial risks to all areas  
16      along the transportation route, including  
17      especially Salt Lake City.

18                  Never before has the transportation of  
19      high-level nuclear waste been attempted at this  
20      scale. While utilities claim that there has never  
21      been an accident involving commercial high-level  
22      nuclear waste, all transportation to this point in  
23      time has occurred within three-quarters mile of the  
24      origin of the waste. The great distances traveled  
25      under the PFS proposal dramatically increase the

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1 risk of a serious accident as well as the plans  
2 call for a second round of transportation risks  
3 once the permanent site has been located, if, in  
4 fact, the permanent site will ever be located as  
5 the Federal Government has taken on that  
6 responsibility, and to this point completely  
7 shirked that responsibility.

8 Furthermore, transportation tasks have  
9 never been appropriately tested. Currently we rely  
10 on computer modeling and tests conducted decades  
11 ago, neither of which is tested in real world  
12 scenarios. For example, we know from the Baltimore  
13 Tunnel fire that in an accident casks may be  
14 exposed to much hotter and longer fires than they  
15 have been tested to withstand. Every community  
16 along the transportation route will be put at  
17 immense risk by the transportation of high-level  
18 nuclear waste, and because of the absence of real  
19 world experience we'll never know exactly how great  
20 those risks might be.

21 . Real costs of an accident involving  
22 nuclear waste are estimated to be somewhere from 13  
23 billion to \$300 billion. However, countless costs  
24 involving the health and safety of Salt Lake City  
25 residents and every resident along the

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1           transportation routes cannot even be quantified.  
2           We have no assurance at all that these costs can or  
3           will be covered by the PFS utilities consortium,  
4           and in fact from the data it appears quite evident  
5           in terms of the costs of a nuclear waste accident  
6           there is no way that this utilities consortium  
7           could ever cover all of those costs.

8                         Second point. The waste from nuclear  
9                         energy production should remain on site until a  
10                  permanent repository is determined and prepared.  
11                  Traditional on-site facilities are of the same  
12                  design and construction as the proposed Skull  
13                  Valley facility. If the design and process are as  
14                  safe and reliable as Private Fuel Storage claims,  
15                  why should we risk the transportation of that waste  
16                  over long distances putting a large portion of the  
17                  United States population at risk? Let the nuclear  
18                  fuels stay in the communities that have benefited  
19                  from nuclear power and stored by those who have  
20                  recklessly created the risks we are now being asked  
21                  to assume.

22                         (Applause.)

23                         MAYOR ANDERSON: PFS should push for  
24                  expansion of existing storage facilities or slow  
25                  the production of nuclear power which creates these

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1 dangerous wastes. Additionally, the real risks of  
2 terrorism have not been sufficiently addressed in  
3 the PFS Final Environmental Impact Statement.

4 Utilities use the threat of terrorism as an excuse  
5 to move waste from on-site storage locations, but  
6 fail to mention the risks of terrorism all along  
7 the transportation routes, especially bottlenecks  
8 such as Salt Lake City.

9 Protecting a discrete location is much  
10 easier than protecting railroad cars traveling  
11 thousands of miles each day. No consideration has  
12 been given to this grave concern. Especially  
13 considering the world circumstances we now face,  
14 this dispositive omission in the Environmental  
15 Impact Statement must be acknowledged; and if  
16 acknowledged, the resolution of this issue has no  
17 other way to go than to deny this proposal and  
18 require that these fuels, these materials be stored  
19 where they're currently located until a safe  
20 permanent facility has been determined and  
21 prepared.

22 Third point. While the Goshute  
23 Reservation site is being promoted as a temporary  
24 facility, there is no assurance that this facility  
25 will be temporary. On February 1, 1998, the

1       Federal Government was to take possession and  
2       permanently store existing waste from nuclear  
3       reactor facilities. That deadline was missed and  
4       the goal of permanent storage remains elusive.

5                   Utility companies have sued the Federal  
6       Government and won. Although the processes for  
7       compensation have not been decided, many options  
8       for payment of on-site storage and expansion  
9       exists. The PFS effort to create an off-site  
10      temporary storage facility is simply a tactic to  
11      move waste quickly, clear space and continue  
12      producing nuclear energy at present day levels.

13                  If the production of nuclear energy  
14      continues at this rate, estimates show that the  
15      proposed Yucca Mountain Storage Facility will be at  
16      capacity by the year 2046. If waste is transported  
17      from Skull Valley to Yucca Mountain, eyes will be  
18      looking towards Skull Valley once more as a tried  
19      and true high-level waste depository. Once this  
20      facility is licensed, Utah may never again be free  
21      from high-level nuclear waste storage, nor will  
22      Americans as a whole be free from long distance  
23      nuclear waste transportation risks.

24                  The fourth point. Though the NRC has  
25      determined the economic impacts on the Goshute

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1       Reservation will be unofficial, serious detrimental  
2       impacts exist for Salt Lake City and other  
3       communities along the transportation routes.

4                     The Utah Association of Realtors  
5       conducted a Dan Jones poll in September of 2000  
6       that showed 60 percent of the participants felt the  
7       transportation of nuclear waste would have a  
8       negative impact on property values. The value of  
9       property is based on perception. Whether or not  
10      nuclear waste transportation and storage is safe,  
11      residents along major transportation routes will be  
12      economically damaged by the perception and  
13      connotation that northern Utah is becoming the  
14      nation's nuclear waste dump. The impacts on our  
15      economy cannot be ignored.

16                     Off-site temporary high-level nuclear  
17       waste storage is unprecedented and it is unclear  
18       whether any federal agency even has the legal  
19       authority to permit such a site. The need for this  
20       facility has not been proven and the cumulative  
21       risks and negative impacts are greater than the  
22       State of Utah and Salt Lake City are able or  
23       willing to accept. Consideration must also be  
24       given to the impacts on communities adjacent to the  
25       transportation corridor across the nation, which

1       are not even being included in this public process.

2                     The approval of this proposed facility  
3                     and the consequent transportation of high-level  
4                     nuclear waste would create enormous detrimental  
5                     impacts on Salt Lake City as well as the 43 states  
6                     through which waste will travel. Off-site  
7                     temporary storage of high-level waste is a deadly  
8                     experiment; a horrific accident waiting to happen.

9                     On behalf of the citizens of Salt Lake  
10                    City, I vigorously oppose the development of the  
11                    proposed high-level nuclear waste storage facility  
12                    on the Goshute Indian Reservation and urge the  
13                    Nuclear Regulatory Commission to consider other  
14                    more responsible alternatives which will be in the  
15                    best interests of all Americans.

16                    Thank you very much.

17                    (Applause and standing ovation.)

18                    JUDGE FARRAR: Mr. Mayor, thank you for  
19                    those very thoughtful comments. And  
20                    notwithstanding how you feel about the facility,  
21                    your people have welcomed us to the city and we  
22                    will be here for six weeks. And while you may not  
23                    be happy we're here, we're delighted to be here to  
24                    hold this hearing. And while tonight is important  
25                    to say your peace, we really hope some of you will

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1       find the time to come to the actual evidentiary  
2       hearing where some of the questions the Mayor has  
3       spoken about and that I have mentioned will be  
4       addressed. So we welcome your participation there.

5                 I think I forgot in the introduction to  
6       say my name. Congress says you should have two  
7       technical members and a lawyer chairman. And  
8       that's me, I'm Mike Farrar. And Paul Bollwerk is  
9       also a lawyer.

10               What I would like to do now, and again,  
11       Mr. Mayor, thank you for keeping your remarks  
12       brief. Anyone who wants to speak and hasn't signed  
13       up has to go to the back of the room and sign up  
14       and we are going to keep this to three minutes, so  
15       be thinking about that. We've got a number of  
16       microphones. What I would like to do is call  
17       several names so we won't lose time in the  
18       transition. So I would like at least the on-deck  
19       person to go to the next microphone. First is  
20       Jason Groenewold.

21                 (Applause.)

22                 JUDGE FARRAR: I don't mind you  
23       applauding for the Mayor, but let's hold the  
24       applause here.

25                 MR. GROENEWOLD: Should I just go ahead

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1      |      then?

2 JUDGE FARRAR: Hold on a second. Is  
3 Mary Draper here? Would you go to the next  
4 microphone? Okay. Go ahead, Mr. Groenewold.

5 MR. GROENEWOLD: I represent an  
6 organization called Fair Families Against  
7 Incinerator Risk, and Chip Ward, who is the  
8 chairman of our organization, is actually going to  
9 speak on our behalf.

10 MR. WARD: Good evening. Welcome to  
11 Utah.

12                   The assumptions, principles, criterias  
13                   and methods of science are the foundation of our  
14                   culture's prosperity and progress. They have given  
15                   us longer and healthier lives. They have also  
16                   given us nuclear and chemical weapons, dioxins,  
17                   PCBs, and a natural world stripped of its  
18                   underpinnings by adversity.

19                         The reason scientific achievement can be  
20                         associated with both comfort and fear is that it is  
21                         not self directed, it is harnessed. Those that  
22                         fund, direct and advocate on behalf of organized  
23                         science are not themselves as objective as the  
24                         scientific methods they extol. They are not exempt  
25                         from the human condition. Like all of us they

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1       require values, attitudes and opinions. They have  
2       relationships, interests, contracts, grants and  
3       careers to further and protect.

4                     Together in a partnership with  
5       government, its corporate sponsors, the priorities  
6       for applying science are set. The configuration of  
7       political power that emerges from that struggle to  
8       design scientific application defines outcome. The  
9       results, of course, vary. You can either get a  
10      cure for cancer or global warming.

11                  I remind you of these self-evident facts  
12      of life because citizens who comment during the  
13      NRC's approval process, and it is always an  
14      approval process, are often scolded and told that  
15      our objections don't count because decisions will  
16      be based on science and not politics. I have never  
17      been able to decide whether that response to us is  
18      arrogant, stupid, dishonest or cynical. I guess it  
19      is stupid --

20                  (Appplause.)

21                  MR. WARD: I guess it is stupid if NRC  
22      bureaucrats --

23                  JUDGE FARRAR: Hold on. Hold on a  
24      second. You've got your choice. We're here until  
25      9:30. You can applaud all you want and fewer

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1 people are going to be heard.

2 (Applause.)

Yucca Mountain wasn't targeted because the science was right or good, it was chosen because it was politically expedient. Utah State, of course, should carry no pretensions at all of scientific assessment. It was chosen by a consortium of utility corporations looking for emergency plan B when the feds failed to find a mid-term dump for their waste.

20 Some of the Goshutes were willing to  
21 sell their sovereignty to the highest bidder, and  
22 PFS understood the advantage of hiding behind that  
23 sovereignty to avoid the usual political and legal  
24 constraints that they would be subject to  
25 otherwise. Never mind the messy and suspicious

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1       aspects of how and why the deal was cut, the NRC is  
2       going to approve it, it's going to do its best to  
3       validate it.

4                   I cannot stop them from approving the  
5       project. My comments here will enter the record in  
6       that section of your report reserved for what you  
7       surely were advised was the public circus, but I  
8       would like to state that the American citizens are  
9       not dumb. We understand that the Skull Valley site  
10      is risky because we live with earthquakes,  
11      wildfires, flash floods and avalanches. We live  
12      embedded in a landscape where chaos, catastrophe  
13      and disturbance reign and cannot be constrained.  
14      The unthinkable happens here all the time.

15                  We have seen trains go off bridges and  
16      into rivers and tankers explode on highways. F-16s  
17      crash regularly here and missiles go astray and  
18      sometimes nerve gas gets loose and sheep drop dead.  
19      We find uranium for your nuclear power plants and  
20      weaponry and we have sickened and died despite  
21      approval. Most importantly, we have been downwind  
22      from atomic fallout. It is easy to see why the  
23      assurances of government science are not credible  
24      to many of us.

25                  We see the PFS proposal for what it is,

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1 a naked emperor, and that the NRC, its royal  
2 tailors, are not blind, they are complicit. Risk  
3 is not a math problem. It takes place in a social  
4 context. Who is put at risk and why? For whose  
5 benefit? Is risk fair? Is it worth it or not?  
6 Yes, this is a political process. You can approve  
7 the PFS project, but you cannot validate it. You  
8 can dismiss our comments, but you cannot dismiss  
9 us. You can be here today and put your dubious  
10 blessing on this project, but your blessings are a  
11 curse. We will not give up and we will not go  
12 away. I have been asked if I believe the NRC's  
13 approval means it's over. In a democracy it's  
14 never over until the citizens say it's over.

15 (Applause.)

16                             JUDGE FARRAR: Thank you for your  
17     remarks. Those of you who have been to this sort  
18     of session or know about how they're conducted know  
19     that it's not a debate or a dialogue so we will not  
20     respond. I will say only this: Come to the  
21     hearing, watch what we do.

22 Ms. Draper?

23 MS. DRAPER: Thank you. My name is Mary  
24 Draper. I'm a resident of Salt Lake County, a  
25 native Utahan. And I'm someone's child, someone's

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1 mom and somebody's sister, and just like everybody  
2 else in this room, somebody's friend, and I'm  
3 America's citizen. I would like to address my  
4 remarks to you all from those different roles that  
5 I have as you try and do the job which you've got,  
6 which is to figure out whether to grant or not  
7 grant the license that you've been asked for by  
8 PFS.

9 As a citizen, I have the right to expect  
10 my government to live up to its obligations. I'm  
11 not so naive to believe that it always will, but I  
12 clearly want to state here and for the record that  
13 I expect the United States Government to live up to  
14 its promise to safely store the waste generated by  
15 nuclear power plants operating in this country.  
16 The government promised us this in 1982 when  
17 Congress passed the Nuclear Waste Policy Act.

18 As a parent, wife and member of an  
19 extended family, I have an expectation. It's not a  
20 right, but it's an expectation that I can raise my  
21 children and live out my life with my family with a  
22 certain amount of safety in the State of Utah.  
23 Since the events of September 11 my idea of how  
24 safe the world is has radically changed.  
25 Notwithstanding my startling new awareness of the

1       evil that men can do, I still believe and expect  
2       that people will not be allowed to willingly  
3       endanger my life and that of my family. Certainly  
4       they will not receive a government granted license  
5       to do so. And that's exactly what you'll be  
6       granting if you let PFS pursue this scheme.

7                  The plan to put these canisters of waste  
8       exposed in the open desert is absurd. The site is  
9       in earthquake zone just like most of Utah. We have  
10      4,000 F-16s flying over us annually to an Air Force  
11      test base. We have the Tooele Army Depot  
12      incinerating nerve agents close by, and we have two  
13      major private landfills accepting hazardous  
14      chemicals and low-level waste from around America  
15      already.

16                  Enough is enough. Utah's people, Utah's  
17      West Desert simply can't take anymore. Deny this  
18      license. Allow the Federal Government, not some  
19      private entity which seeks to make profit, has  
20      dubious motives and extremely dubious financial  
21      means to take care of this problem. I know none of  
22      you, but you're in the seats up there. You're the  
23      people with the power to stop this project. You're  
24      the ones with that authority. I hope you do the  
25      right thing.

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1 (Applause.)

2 JUDGE FARRAR: Ms. Draper, thank you for  
3 those very heartfelt remarks. James Webster next,  
4 then Ann Duffin and Janet Owens. Are they here?  
5 Ms. Duffin, if you would go to the next mike. Mr.  
6 Webster, go ahead.

7 MR. WEBSTER: My name is James Webster  
8 and I'm a citizen of Salt Lake City, Utah. I was  
9 fortunate enough to have studied NEPA, the National  
10 Environmental Protection Act, with those who wrote  
11 it. My initial question is, why should we trust  
12 the NRC? I recall at Hanford the NRC, or the AEC,  
13 or whatever you called yourself in those days,  
14 promised us that it would be 180 years before  
15 nuclear waste would migrate to the Columbia River,  
16 and it was 11 years. I have gone through the  
17 entire 12-pound document, or whatever it is, and  
18 I've looked at every response to the questions that  
19 I raise in a 17-page document, of which there were  
20 145. Of the 145 I found one honest response.  
21 That's a batting average of .006.

I'll go through a few of these. We talk  
about the performance of the facility or the  
permanence of the facility. In one place on page  
29 you say it's 15 years. On page 45 you say it's

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1       40 years with an estimate of 1,579,525 casks, and  
2       you say that it's speculative, speculative, and  
3       therefore that estimate is not included in the  
4       FEIS.

5                   We talk about storage of waste greater  
6       than Class C or plutonium. The response is, "No  
7       EIS or public process is required to allow for the  
8       storage of plutonium, the timing or removal of  
9       spent nuclear fuel rods." We must wait for the  
10      final "decommissioning plan." When will that be  
11      available, the reactor storage evaluation? I  
12      thought this was rather interesting. Quote, page  
13      88, "Spent nuclear fuel could continue to be stored  
14      at reactor sites without significant environmental  
15      impact."

16                  With respect to the evaluation of  
17      economic development there was no response  
18      whatsoever that we look at ethnobotany, a  
19      multimillion dollar industry that the Goshutes  
20      already participate in, ethical concerns about  
21      siting the facility on the reservation.  
22      "Evaluation of ethics is not reviewed in this  
23      process," quote-unquote.

24                  In terms of the Oregon-California Trail  
25      Association, no response. Compliance with NEPA, no

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1 response to my comment that the DIS has failed to  
2 include corrosive soils as pertinent scientific  
3 facts. Such soils are a fatal flaw in the PFS  
4 proposal. I recommend this as highly important to  
5 your reading and your research. It's a soils  
6 report by the USDA, a federal agency that states,  
7 "The soils out there are too corrosive to steel and  
8 concrete." How do we know how long these casks  
9 will withstand those impacts? We don't.

10 Seismic analysis. I appreciate the fact  
11 that you're dealing with that. Facility water use.  
12 I asked the question, "Has the state marshal  
13 confirmed NRC's opinion that flow volume is  
14 adequate?" No test logs are provided in the final  
15 statement.

16 If the Band has "carefully researched  
17 and considered its participation," why are so many  
18 members opposing the project? In terms of  
19 regional, state and national economics, on page  
20 247, there was no response relative to the radical  
21 decline of housing starts in Tooele County. As a  
22 matter of fact, building permits have dropped from  
23 over 750 per year prior to the July 26 hearing in  
24 19 -- excuse me, in the year 2000 to less than 60  
25 last year. And they're at a rate of around 35 or

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1       40 this year. That is an unbelievable impact. It  
2 has not been accounted for.

3                     Effects on plants and animals. Dr. Case  
4 at BYU in the ethnobotany program says that the  
5 high levels of toxicity for plants that I regard as  
6 endangered that will be disturbed or disrupted by  
7 the construction of this site, he says that those  
8 are extremely critical to the medicinal qualities  
9 of the ethnobotany aspect and has been completely  
10 ignored by the PFS and the final EIS.

11                  Military accidents, you say it's an  
12 extremely low probability. Again, how do we know?  
13 Tipped casks. The NRC assumes that casks can only  
14 be tipped over by handling operations. This is  
15 absurd. Emergency response and timing for  
16 uprighting the casks are critical, yet they're not  
17 addressed. Neither earthquakes nor airline  
18 sabotage such as 9/11 are even addressed. Response  
19 time. We have to wait for a safety review.  
20 Testing of transported casks, no response to  
21 concern for speeds over 30 miles an hour.  
22 Discharge of casks from rail cars due to an  
23 accident or cost of the impact to the Union Pacific  
24 or crews because of the "single purpose trains."

25                  JUDGE FARRAR: Mr. Webster, if I might

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1       interrupt you, you said you had 145 points. And,  
2       again, it's not fair to the rest of the group.

3                    MR. WEBSTER: I have three more that I  
4       would like to address and then I'll conclude it.  
5       In fact, I'll conclude it right now. Reclamation  
6       is dependent on soil characteristics. The soils  
7       that are out there are incapable of being restored  
8       and they're wind-borne, corrosive soils that are  
9       very difficult. I talk about the corrosiveness.  
10      That hasn't been dealt with.

11                  You know, when you talk about September  
12      11th you have this blanket statement throughout the  
13      Impact Statement that says, "If the NRC determines  
14      that revisions to NRC's requirements are warranted,  
15      such changes would occur through public rule  
16      making." The NRC staff, however, has not yet  
17      identified any specific additional requirements of  
18      storage with respect to sabotage. When will those  
19      requirements be established? We're talking about  
20      a virtual city of World Trade Centers in terms of  
21      these casks.

22                  Now I would like to conclude. As PFS,  
23      the NRC has demonstrated the same multimillion  
24      dollar solution for public safety. You cannot  
25      escape the transparent fact that conflicts of

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1 interest are inherent to the situation created by  
2 NRC's own failure to perform in a timely manner.  
3 The EIS represents poorly conceived solutions in  
4 search of a rationale. A preconceived plan  
5 desperately hoping to justify the means. Clearly  
6 this is not the intent of NEPA and everybody knows  
7 this. You have not made your case, not at our  
8 expense.

9 (Applause.)

10 JUDGE FARRAR: Thank you, Mr. Webster.  
11 Let me just take a moment -- and, Mr. Webster, I  
12 know you won't mind this -- and explain something  
13 about how the NRC works. Mr. Webster, I understood  
14 what you meant when you said "you," but let me  
15 explain the division of authority in the Nuclear  
16 Regulatory Commission. A company like PFS files an  
17 application and an Army of people who we call the  
18 NRC staff goes over it, reviews it and insists on  
19 changes, and eventually is satisfied with it. We  
20 have no part of that. So those documents Mr.  
21 Webster referred to are not documents we created.  
22 These are documents that the NRC staff created and  
23 you may agree with them or you may disagree with  
24 them.

25 The point I'm making is when we come to

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1       the hearing, we are here as judges in any kind of  
2       trial, they have no interest in the case. On one  
3       side we have the company and the staff which has  
4       now blessed the proposal. On the other side we  
5       have several parties, but most notably the State of  
6       Utah, who has been fighting this thing mightily.  
7       We are independent, we have no interest in which  
8       side wins. So when we hear people saying what has  
9       been done, that is not action we have done. We  
10      have nothing to do with the staff, they have  
11      nothing to do with us and the action we take will  
12      be in a written decision at the end of the public  
13      hearing.

14                   Ms. Duffin, and next will be Janet  
15                   Owens.

16                   MS. DUFFIN: My name is Ann Duffin. I  
17      have no particular expertise in science, let alone  
18      waste management or nuclear energy, but I have  
19      great concern about the plan to transport  
20      high-level nuclear waste across many states to a  
21      storage site just 45 miles from where the majority  
22      of Utahans live, including me. I'm also not going  
23      to say one single thing that everybody in here has  
24      not already thought for themselves, I'm sure.

25                   There have been many assurances put

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1 forth that this plan possesses minimal risks. I am  
2 dubious about most of those assurances. All of  
3 those promises seem to be coming from the parties  
4 with the most to gain and with little or nothing to  
5 lose. Private Fuel Storage is a limited  
6 partnership with all the attendant legal  
7 protections from responsibility if something should  
8 go wrong. The Goshute Tribe stands to benefit  
9 financially in a very big but unspecified way from  
10 this project. Tooele County itself may benefit.  
11 Of course, both of the latter stand to lose  
12 everything, truly everything if there is a leak, an  
13 earthquake, a mis-aimed bit of ordnance from the  
14 West Desert test range, a terrorist attack or any  
15 of the other not impossible incidents.

16 The Federal Government has already  
17 massively failed the citizens by not meeting its  
18 self-imposed deadlines to create permanent storage  
19 for the waste created by nuclear power plants, but  
20 allowing PFS to create a storage site in Utah only  
21 compounds that failure. There is no genuine, long  
22 lasting benefit in this plan for Utah or for any  
23 state through which 40,000 metric tons of nuclear  
24 waste would pass. There are considerable risks and  
25 10,000 mere consequences should even one cask fail

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1       in transport to the site or in storage. The notion  
2       this is a temporary storage site is nice, but it's  
3       just as likely that the Federal Government will  
4       find us a really convenient solution for its  
5       aforementioned failure.

6                     Allergies, aren't they wonderful. Yucca  
7       Mountain involves most of the same transportation  
8       issues, and isn't as far away as I would like,  
9       looks far for sensible to me. A thousand feet of  
10      solid rock surrounding the most toxic poisons  
11      humans have thus far produced compared to open air  
12      storage - yeah, that does have its appeal, believe  
13      me.

14                  The Utah State Government has also  
15      failed a portion of its population by not seeing to  
16      the welfare of the Skull Valley Goshute Tribe.  
17      That is not the correct topic of this hearing, but  
18      if Governor Leavitt and others in a position to  
19      make things happen are serious about keeping this  
20      hazard out of Utah, they need to also be serious  
21      about providing an attractive alternative to the  
22      Skull Valley Tribe. Otherwise, all Utahans will  
23      pay in a way we cannot begin to forget.

24                  Now, I try not to be hysterical about  
25      the risks of daily living in this increasingly

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1 complex world, but somehow having 80 million pounds  
2 of dangerously hot nuclear waste accumulated within  
3 an hour's drive from home just doesn't seem to fall  
4 within the range of normal risk. Keep the waste  
5 where it is until there is a safer permanent  
6 solution. Don't expose populations across the  
7 country to the danger of 40,000 tons of radioactive  
8 material moving through their communities and along  
9 major transportation routes. We don't produce  
10 nuclear waste of this quantity in Utah, we don't  
11 benefit from its production in other states, so why  
12 should we bear the risk of having it here.

13 Thank you for your time.

14 (Applause.)

15 JUDGE FARRAR: Thank you, Ms. Duffin.

16 After Ms. Owens will be Allison Hoffman and Elise  
17 Lazar. Is Barbara Bruno here? Bob Brister, you'll  
18 be next after Ms. Owens.

19 MS. OWENS: My name is Janet Owens. I  
20 am a wife and mother living in Salt Lake County  
21 trying to live my life and raise my children here.  
22 Today Utah is on the brink of becoming the nation's  
23 largest nuclear waste storage area. This waste  
24 will be coming to our state from all over the  
25 country. Once here it presents myriad sets of

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1 problems for the state.

2 I believe a very important issue that  
3 needs to be addressed is the issue of getting it to  
4 Utah in the first place. PFS believes that the  
5 best way to transport the waste is by rail. The  
6 spent fuel will be loaded into canisters and be  
7 filled with helium and welded shut. These  
8 canisters are then loaded into steel transportation  
9 casks, each of these casks weighing upward of 150  
10 tons. Four of these casks of high-level nuclear  
11 waste will travel weekly by rail to Tooele County.

12 Once there, PFS will either have these  
13 casks continue by rail to Skull Valley or transfer  
14 the waste to trucks for transfer to the storage  
15 facility on the Skull Valley Goshute Indian  
16 Reservation. By the time the project is over there  
17 is projected to be 4,000 storage casks out there.

18 Since the waste is coming from all areas  
19 of the United States it needs to enter Utah at  
20 several different points. From the east it enters  
21 near Evanston, travels across the watershed area in  
22 Weber Canyon, through Davis County, then Salt Lake  
23 City, and on to Tooele County. The waste will also  
24 enter Utah near Grand Junction, pass through Green  
25 River and Price, across the watershed areas of

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1       Price and Spanish Fork Canyons, and then travel  
2       north along the Wasatch Front, through Utah, Salt  
3       Lake and Tooele Counties.

4                     This doesn't even take into account the  
5       route these trains will take before reaching Utah's  
6       borders. It will be traveling across the whole  
7       Continental United States. The more this stuff is  
8       handled and moved, the more risk there is for an  
9       accident of an unprecedented magnitude. The train  
10      routes tend to travel through highly populated  
11      areas. Trains will also be traveling through the  
12      midsection of our country where much farming is  
13      done that provides the food that feeds us all. No  
14      one can guarantee that there won't ever be  
15      something like a transportation accident, sabotage  
16      or terrorism. We live in a new world. These  
17      scenarios have to be taken into consideration.

18                     Are emergency response teams all along  
19      the transportation routes prepared to handle a  
20      train wreck involving tons of radiation? Train  
21      routes usually parallel freeways. What would  
22      happen to interstate commerce in the event of an  
23      accident? The variables are too numerous to risk  
24      transporting spent fuel to Utah. Common sense  
25      dictates that PFS builds storage facilities at

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1 reactor sites. Economically it may be more  
2 convenient to build one storage facility, but in  
3 this case economics and convenience must step aside  
4 for the good and safety of all the people of Utah  
5 and this country.

6 (Applause.)

7 JUDGE FARRAR: Ms. Owens, thank you.

8 Mr. -- did I miss you?

9 MS. WHITE: I think I'm after him.

10 JUDGE FARRAR: Okay, fine. You're  
11 Rachel White?

12 MS. LAZAR: I'm Elise Lazar.

13 JUDGE FARRAR: Oh, okay. We missed you.  
14 I'll let Mr. Brister go first and then I'll come  
15 back to you.

16 MS. LAZAR: Okay.

17 MR. BRISTER: I'm Bob Brister, I'm a  
18 resident of Salt Lake City. In my opinion, the  
19 nuclear industry and the production of nuclear  
20 waste is a crime against humanity, against ecology  
21 and against future generations. We need to shut  
22 down the nuclear industry. It seems to me that the  
23 Goshute Dump will just perpetuate the nuclear  
24 industry by providing an outlet for its waste. We  
25 need to keep the waste where it is at least until

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1 nuclear waste production ends. I urge you to  
2 reject the Goshute Waste Dump and that would be a  
3 good first step in ending the nuclear industry.  
4 Future generations would be grateful. Thank you.

5 (Applause.)

6 JUDGE FARRAR: Mr. Brister, thank you  
7 for those remarks. After Ms. Lazar, Rachel White.  
8 Is she here? Ms. Lazar.

9 MS. LAZAR: Gentlemen, thank you for the  
10 opportunity to speak and welcome to Utah. I hope  
11 that while you're here you have the opportunity to  
12 see what's outside this room; the extraordinary  
13 beauty of our terrain, especially the cradle of our  
14 mountains. This terrain is what the author Wallace  
15 Stegner describes as a Garden of Eden.

16 "Unfortunately," and I quote Stegner here too, "in  
17 order to truly be a Garden of Eden you must have a  
18 serpent." That serpent for us is the distressing,  
19 really alarming possibility of becoming the site,  
20 and I can't imagine it will be temporary, for the  
21 present accumulation of high-level nuclear waste.

22 I've been there, seen the proposed site,  
23 right across the road from where the few Goshutes  
24 who remain on the reservation live. The land is  
25 harsh and barren. And if you could ignore the now

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1       very real possibility of terrorism, made all the  
2       more real with its proximity to the airport, or if  
3       you could ignore the predicted earthquake since the  
4       site is on a fault, and these rods remain  
5       radioactive for thousands and thousands of years,  
6       or if you could ignore the possibility of other  
7       naturally occurring weather conditions, such as  
8       tornados, a concern since the casks will be  
9       freestanding stored outside. If you can ignore  
10      these and the transportation issues, you could be  
11      lulled into thinking that it's safe behind the  
12      barrier mountains. And safety is of course the  
13      issue. We know that scientific testing has been  
14      extensive, but don't think that the reports and the  
15      confident assurances that the transportation and  
16      storage of the casks -- that they are safe are  
17      reassuring to us.

18                   We were reassured by our government  
19      years ago that nuclear testing was safe. Look what  
20      happened there. We were the primary downwinders  
21      with our citizens described in a top secret Atomic  
22      Energy Commission memo as, "A low use segment of  
23      the population." We've learned our lesson from the  
24      past, grappled with the complexities of this  
25      present nuclear waste issue and we conclude that we

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1 do not trust.

2 We also know that you are under a  
3 tremendous pressure to keep the promise the  
4 government gave to the nuclear industry years ago,  
5 that a solution to the storage of nuclear spent  
6 rods will be found. You're well past the deadline  
7 and now we know you've been faced with a lawsuit  
8 from PFS. We also know that you will get on a  
9 plane and leave, and there's a lot of space between  
10 D.C. and SLC. No threat directly to you.

11 So once again we are expendable,  
12 victimized. You are taking advantage of the  
13 exemption of Native American sovereignty off a  
14 poor, fractionalized but proud Indian tribe led by  
15 an unprincipled greedy pariah whose leadership has  
16 been unjustifiably sanctioned by the Bureau of  
17 Indian Affairs, thus paving the way for the PFS  
18 proposal.

19 (Applause.)

20 MS. LAZAR: And you're taking advantage  
21 of the rest of us. There is no way that you can  
22 positively guarantee the complete safety for the  
23 hundreds of generations that will be impacted by  
24 your decision. If you recommend approval you are  
25 once again jeopardizing the citizens of the State

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1       of Utah and well beyond, both in place and in time.  
2       Not just tainting, but quite possibly ultimately  
3       destroying our Garden of Eden.

4                   We urgently request that you do not make  
5       a recommendation to the NRC that Skull Valley be  
6       the storage site of present nuclear waste. Thank  
7       you.

8                   JUDGE FARRAR: Ms. Lazar, thank you.  
9       Those remarks were very eloquent. We heard some  
10      eloquent remarks earlier today from counsel and  
11      those were in the same category. Thank you.

12                  Rachel White. And after her Steve  
13      Richins. Is he here? And Greg Carlisle, Rosemary  
14      Holt, Kurt Seel, Mrs. Seel.

15                  MR. SEEL: She's not here.

16                  JUDGE FARRAR: Okay. Go ahead, Ms.  
17      White.

18                  MS. WHITE: Thanks. Good evening. I  
19      would like to urge this body and the NRC to reject  
20      the PFS proposal because the scenario, if approved,  
21      would inappropriately grant private industry the  
22      authority to dictate national nuclear waste policy  
23      without congressional oversight. The PFS license  
24      application cannot be evaluated as though it were a  
25      typical on-site storage facility for a single

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1       nuclear facility's waste, which is what the Final  
2       Environmental Impact Statement tries to do. The  
3       amount of waste for which the PFS facility is being  
4       considered is equal to the entire country's current  
5       inventory of commercial high-level waste, an  
6       estimated 40,000 casks, which will require an  
7       unprecedented cross country nuclear shipping  
8       scheme. Legislators' scrutiny should be given to  
9       this proposal which directly affects national  
10      energy policy.

11                   Nuclear energy is a costly, risky,  
12                  inefficient method of meeting the nation's energy  
13                  needs. When capital expenses are included with  
14                  operation, maintenance and fuel outlays, nuclear  
15                  energy costs \$2,080 per kilowatt hour compared to  
16                  \$1,200 per kilowatt hour for coal or \$500 per  
17                  kilowatt hour for natural gas. Not to mention the  
18                  untapped possibilities of wind and solar power.

19                   Nuclear energy's high costs are actually  
20                  understated since they do not include the value of  
21                  the Federal Government subsidies such as the  
22                  Price-Anderson Act under which the Federal  
23                  Government provides subsidized insurance to  
24                  commercial reactor operators. Nor does it fully  
25                  account for long-term costs of nuclear waste

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1 management paid for by us, the taxpayers.

2                   People in states that have nuclear  
3 reactors have had to pay other subsidies to the  
4 nuclear power industry, including the accumulated  
5 debts from cost overruns. Research by the consumer  
6 group Public Citizen shows that in the 19 states  
7 and the District of Columbia that do not have  
8 nuclear reactors, the 1999 average cost of  
9 electricity was 5 cents per kilowatt hour. The  
10 average cost of electricity in the 31 states that  
11 use nuclear power was almost 7 cents per kilowatt  
12 hour. In other words, consumers in states with  
13 nuclear power plants paid 25 percent more for their  
14 electricity than consumers in states without  
15 reactors.

16                  PFS and the NRC are not able to  
17 guarantee the safety of the hundreds of communities  
18 across the U.S. that could be devastated by a  
19 mishap during the transportation of this nuclear  
20 waste. The FEIS clearly says it is the  
21 responsibility of states and local communities to  
22 provide emergency response. The Emergency Response  
23 section of this document on page 5-53, Shipments to  
24 PFS, Nationwide Transportation Accident Impacts,  
25 concludes there will be no significant increase in

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1       emergency response costs because local responders  
2       are already providing capable emergency response to  
3       incidents caused by the regular traffic of commerce  
4       in radioactive waste.

5                   I find this conclusion in this section  
6       to be illogical. We are discussing a proposal to  
7       ship large amounts of vastly more radioactive  
8       material than is currently being transported which  
9       will increase the risk of accidents for communities  
10      along the transportation corridor. On a daily  
11      basis we hear in the news how easily local  
12      emergency resources can be overwhelmed by these  
13      type of incidents. It doesn't really matter to the  
14      people who die in an accident whether the incident  
15      was caused by terrorism or the everyday risks of  
16      transporting high-level nuclear waste.

17                  In the FEIS in Appendix D, if I read it  
18      correctly, the risk of a transportation accident  
19      involving this type of waste is between 1 in 1,000  
20      and 7 in 1,000. If I'm not reading that correctly,  
21      you might consider some alternative besides the  
22      scientific notation. Even if this estimate is  
23      accurate, it is not acceptable. It is not  
24      appropriate to have a government agency make  
25      decisions that amount to the ongoing safety of

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1 people along the proposed primary corridor. To  
2 have a government agency decide it's all right for  
3 private industry to expose the public to increased  
4 risk of nuclear waste accidents is not right.

It simply doesn't make sense to transfer this risky material across the United States. The alternatives listed in the FEIS at 2.2.1.2 and 2.2.1.3 should be fully explored before any alternatives are pursued even if this means saddling taxpayers with even more subsidies for the nuclear industry. Paying more taxes to take title to the contaminated reactor sites in order to decommission them is still preferable to the shipping of this waste across the country. I urge the NRC and this body to approve the no action alternative as the only scenario that does not pose unacceptable risks to the public. Thank you.

18 (Applause.)

19 JUDGE FARRAR: Thank you. Mr. Seel. Is  
20 Mrs. Seel here? She's listed.

21 || MR. SEEL: What?

22 JUDGE FARRAR: Is Mrs. Seel listed with  
23 you at the same e-mail address?

24 MR. SEEL: Yes, she's my wife. She will  
25 not appear here tonight. As we were leaving our

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1       four-month-old twins turned into devil children and  
2       so she had to stay behind.

3                     JUDGE FARRAR: Thank you for sharing.

4       Is Jason McDonald here? Go ahead, Mr. Seel.

5                     MR. SEEL: Thank you. Thank you for  
6       allowing me to comment. My name is Kurt Seel and  
7       I'm commenting on behalf of my wife who could not  
8       make it here and our four-month-old twins. I'll  
9       try to be quick.

10                  We would like to express our general  
11       opposition to the NRC licensing application and to  
12       the application for the BLM right-of-way for the  
13       spent fuel storage facility in Skull Valley. The  
14       basis of my objection is that the staffs of the  
15       NRC, the BLM and the BIA have not properly  
16       assessed, and therefore could not have properly  
17       considered the environmental impacts as required by  
18       the National Environmental Policy Act of 1969 and  
19       applicable CEQ and NRC regulations, including 40  
20       CFR 1500, et seq., and 10 CFR Parts 51 and 72, and  
21       NUREG 1567. We request that the Board not  
22       recommend licensing the facilities until the staffs  
23       of these various agencies prepare a supplement to  
24       the FEIS to bring it into compliance with the law.  
25       Reliance by the Board of Commissioners on a

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1           defective FEIS will put us at risk on appeal.

2           Although there are many problems with  
3         the FEIS, my concerns focus on the lack of an  
4         adequate assessment of the hydrogeology of the site  
5         and the impacts to groundwater quality. Some of my  
6         specific concerns are as follows:

7           First of all, NEPA, CEQ and NRC regulations  
8         state that issues identified in the EIS scoping  
9         document would be analyzed "in-depth." One issue  
10        identified in the scoping document is groundwater  
11        quality. As near as I can tell, the FEIS contains  
12        only one paragraph pertaining to existing  
13        groundwater quality, and that's the final paragraph  
14        of Section 3.2.2, pages 3.13 and 3-14. Without any  
15        greater analyses and site specific groundwater  
16        quality data, the FEIS fails to satisfy the  
17        "in-depth" analysis mandated by NEPA and the NRC  
18        regulations. It's hard to imagine that a single  
19        paragraph that appears to be making vague reference  
20        to the reconnaissance report for the region  
21        something like 30 years ago could possibly satisfy  
22        the in-depth requirement regarding groundwater  
23        quality.

24           Next, the FEIS states that a groundwater  
25         monitoring plan may some day be prepared by someone

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1 if they feel like it. I have not been able to find  
2 anywhere in the FEIS any details of the proposed  
3 groundwater monitoring plan. NEPA requires that  
4 EIS mitigation plans be described in "sufficient  
5 detail" to allow the decision maker to properly  
6 consider whether the mitigation will minimize  
7 adverse impacts. I have not been able to find in  
8 the FEIS any details of the proposed groundwater  
9 monitoring plan. The material terms of the  
10 hypothetical monitoring plan must exist before they  
11 can be considered by the decision maker and comply  
12 with existing law. *Robertson v. Methow Valley*  
13 Citizens Council

, 109 S.Ct. 1835 (1989). The staff  
14 is aware of it because they have cited it in  
15 comments before Judge Scolia.

16 Next, the NRC Independent Spent Fuel Storage  
17 Facility states that if a groundwater production  
18 well is to be placed onsite then the aquifer, its  
19 different hydrologic units and the specific  
20 hydrogeology of the site, as well as groundwater  
21 fate and transport modeling, should be assessed and  
22 performed. The FEIS fails to include any  
23 information for this type, nor does it mention why  
24 this hydrogeologic information wasn't included.  
25 The CEQ regulations are clear that the absence of

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1 information and data should be discussed and  
2 unless the cost of acquiring the information is  
3 exorbitant, the information should be acquired.

4 Finally, NEPA requires the FEIS discuss  
5 both the good information and the bad information,  
6 it cannot just discuss the information that  
7 supports the proposal. The FEIS miserably fails to  
8 adequately discuss the absence of site specific  
9 hydrological groundwater quality data. In  
10 addition, the FEIS indicates the native surface  
11 soils will prevent infiltration of spills and  
12 releases to the groundwater. The FEIS fails to  
13 note or there is no site specific data to support  
14 that conclusion, that there are dozens of open or  
15 improperly sealed boreholes across the site which  
16 may act as direct conduits to the groundwater.

17 Again, I would like to thank you for  
18 this opportunity to comment and request that the  
19 Board recommend the commission not grant the  
20 license to this facility. Thank you.

21 . (Applause.)

22 JUDGE FARRAR: Thank you, Mr. Seel. We  
23 were going pretty good there. We had several  
24 speakers who were under the allotted time. If you  
25 look at your watch we've got 80 minutes left and

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1       we've got 35 people. So please take a look at what  
2       you've written, think about it, and think how you  
3       can say it shorter because a lot of people signed  
4       up and it's really not fair to them. It's no  
5       criticism, Mr. Seel, but several people said some  
6       very good remarks in a very short time so I ask you  
7       to do that.

8                     Jason McDonald and next would be Maryann  
9       Webster. Is she here? Go ahead, Mr. McDonald.

10                  MR. McDONALD: Hello. I am a citizen of  
11       Utah, I'm 25. I've lived here for 20 of my 25  
12       years. I wasn't always happy about being here in  
13       Utah. When I first was told we were going to move  
14       here I raised a stink, but my mom told me that it  
15       would be okay, I would turn out to like the place.  
16       I have turned out to love the place and I plan on  
17       staying here as long as there's no nuclear waste  
18       here.

19                  I'm here on behalf of my mother, my  
20       sister, my brother, my nieces and my nephews and  
21       their wives. I'm here to say, my mom always taught  
22       me something when I was younger as well, that you  
23       should always clean up your own mess. And  
24       considering that we didn't produce this waste and  
25       we get no benefit from this waste, I don't see why

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