UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

November 22, 2005

Mr. John Fowler
Executive Director
Advisory Council on Historic Preservation
1100 Pennsylvania Avenue, NW, Suite 809
Washington, DC 20004

SUBJECT: COMPLETION OF ACTIONS AND TERMINATION OF THE SECTION 106 PROCESS FOR THE PROPOSED PRIVATE FUEL STORAGE PROJECT

Dear Mr. Fowler:

As you may be aware, the U. S. Nuclear Regulatory Commission (NRC) has been working in cooperation with several other Federal agencies in order to complete the required reviews of environmental matters, among them the requirements of Section 106 of the National Historic Preservation Act (NHPA) for the proposed Private Fuel Storage (PFS) Independent Spent Fuel Storage Installation (ISFSI), to be constructed and operated on the Reservation of the Skull Valley Band of Goshute Indians, geographically located in Tooele County, Utah. The lead agency for the Section 106 process, including its documentation through a Memorandum of Agreement (MOA), is the Bureau of Land Management (BLM). For purposes of the NRC's federal action–issuance of a license to PFS–that process is complete.

Specifically, the NRC and three cooperating Federal agencies (the Bureau of Indian Affairs (BIA), BLM, and Surface Transportation Board (STB)) worked together to satisfy their obligations under the National Environmental Policy Act of 1969 (NEPA), culminating in the December 2001 publication of a "Final Environmental Impact Statement for the Construction and Operation of an Independent Spent Fuel Storage Installation on the Reservation of the Skull Valley Band of Goshute Indians and the Related Transportation Facility in Tooele County, Utah," NUREG-1714 (FEIS). In addition, the NRC and cooperating Federal agencies developed a proposed MOA, that sets forth the mitigation measures which PFS must undertake in order to protect historical sites identified during the Section 106 consultation process and to identify and protect any additional sites that may be discovered during construction activities.

With respect to requirements associated with the NHPA, as discussed in the FEIS, the NRC and cooperating Federal agencies have completed all of the substantive requirements of the Section 106 process, including the identification of historic properties; the identification and assessment of potential adverse effects of the proposed PFS ISFSI (and related transportation facilities) on such properties; and the creation of measures to mitigate, avoid, or minimize those adverse effects. This process included consultation with the Utah State Historic Preservation Officer (SHPO), the Skull Valley Band of Goshute Indians, the Advisory Council on Historic Preservation (ACHP or Advisory Council), other consulting organizations and members of the public. Letters concerning the initiation of the NHPA consultation process were attached to the Draft EIS, published in June 2000, and interested parties were given the opportunity to comment on the Draft EIS via the NEPA notice and comment process. All such comments were addressed in the response to comments published by the Federal agencies, in Appendix G of the FEIS.

This NHPA-related consultation and comment process culminated in publication of the FEIS and distribution of the MOA for execution by the signatories and concurring parties. The measures deemed necessary to mitigate any adverse impacts to historic properties were incorporated into draft Treatment and Discovery plans developed by PFS in consultation with the cooperating Federal agencies, and are appended to the MOA. The NRC's safety and environmental review process, as well as all NRC adjudicatory proceedings, have been completed, and the NRC has concluded that a license may now be issued to PFS to construct and operate the proposed facility. Any NRC license issued to PFS for construction and operation of the proposed facility will be expressly conditioned on PFS's compliance with the specified NHPA-related mitigation measures, as set forth in section 9.4.2 of the FEIS.

As you know, the Utah SHPO has declined to consult several times during the Section 106 process, as reflected in the NRC's letter to Ms. Natalie Gochnour, Utah State Planning Coordinator, dated December 5, 2000. Most recently, by letters dated May 26, 2005 and June 2, 2005, the NRC asked the SHPO to execute the MOA. The SHPO did not respond to these requests, but in a letter dated June 7, 2005, addressed not to the NRC but to BLM, stated his position that BLM should defer signing the MOA and that this matter should "proceed concurrently" with BLM's review of PFS's application for rights-of-way and the associated amendment of BLM's Pony Express Resource Management Plan. Until BLM takes those other actions, its execution of the MOA is, in the SHPO's view, premature.

In addition, the NRC staff was recently advised by BLM (an active participant in developing the FEIS and the MOA) that it, likewise, will not execute the draft MOA at this time. In correspondence to NRC dated August 4, 2005, BLM gave two reasons for this development. First, BLM stated that it is precluded from executing the MOA by Section 2815 of the National Defense Authorization Act of 2000. This provision prohibits any revision of the Pony Express Resource Management Plan – noted above – until the Secretary of Defense completes specific studies which, to our knowledge, have not been initiated. Second, BLM expressed concern that the Treatment Plan places a disproportionate burden on PFS (which has agreed to take such measures) for the mitigation of adverse impacts. Subsequent discussions with officials in BLM and the Department of the Interior have made it clear that BLM will not sign the MOA at this time.

The NRC staff has considered the views expressed by BLM, and has not identified any substantive objections by BLM to the MOA or the Treatment and Discovery plans attached thereto – which plans had been developed with BLM's active participation.

The NRC staff and cooperating Federal agencies have duly considered the identification and mitigation of adverse effects to historical properties, through a consultative process in which the ACHP has participated since December 2000. The NRC believes that the substantive objectives of the Section 106 process – to consider the effects of federal undertakings on historically sensitive sites and to provide a reasonable opportunity for the Advisory Council to comment on such undertakings – have been satisfied in full by all cooperating agencies, including BLM. In this regard, no sites eligible for inclusion on the National Register of Historic Places have been identified on the PFS site; rather, all identified sites are located in areas affected by PFS's proposed transportation facilities, which will require separate action by BLM. In addition, measures to address sites that might be revealed during construction, as well as

treatment measures for those sites already identified (albeit off-site), have been developed and agreed to by PFS and will be included as conditions in any license issued by the NRC.

All signatories to the MOA, other than BLM, the SHPO, and the ACHP, have executed the MOA. Further, while additional steps may be necessary for BLM to finalize its individual responsibilities under Section 106 to enable BLM to issue an amendment to the resource management plan allowing PFS to construct its proposed transportation facilities, those steps go beyond those which the NRC is obliged to complete in order to discharge its Section 106 responsibilities and issue a license to PFS for its proposed ISFSI. Therefore, despite the absence of a fully executed MOA, the NRC staff believes that adverse impacts to historical sites have been adequately resolved, that the SHPO and BLM have clearly indicated they will not execute the MOA at this or any time in the foreseeable future, and that in these circumstances, further consultation is unnecessary and will not be productive.

Accordingly, the NRC is hereby formally terminating its participation in the consultation process, and requests that the ACHP transmit comments on such termination within 45 days of receiving this request, in accordance with 36 C.F.R. § 800.7.

Copies of the supporting documentation, including the proposed MOA, the FEIS, which documents the Section 106 consultation process in Appendix B, and relevant subsequent correspondence are provided in Enclosure 1, in accordance with 36 C.F.R. § 800.11(g). In addition, we are forwarding a copy of this termination and request for comments to each of the consulting parties listed in Enclosure 2.

If you or your staff have any questions regarding this request, please contact Mr. Stewart Brown at (301) 415-8531. Thank you for your consideration.

Sincerely,

Jack Strosnider

Jack R. Strosnider, Director
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-22

Enclosures:
1. Copies of Documentation, MOA, & FEIS
2. List of MOA Signatories & Concurring Parties

cc: PFS Service Lists
MOA Signatories & Concurring Parties

cc: Private Fuel Storage

Mr. John D. Parkyn
Chairman of the Board
Private Fuel Storage, L.L.C.
P. O. Box C4010
La Crosse, WI 54602-4010

Mr. Scott Northard, Project Manager
Private Fuel Storage, L.L.C.
c/o Northern States Power
414 Nicollet Mall, Ren Square 7
Minneapolis, MN 55401

The Honorable Jon Huntsman, Jr.
Governor of Utah
Salt Lake City, UT 84114-0601

The Honorable Leon D. Bear, Chairman
and Tribal Historic Preservation Officer
Skull Valley Band of Goshute Indians
2480 South Main, No. 110
Salt Lake City, UT 84115

Mr. Jack Gerard
McClure, Gerard and Neunschwander
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Washington, DC 20002

Dr. Dianne R. Nielson, Executive Director
Department of Environmental Quality
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168 North 1950 West
P. O. Box 144810
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Ms. Sally Wisely, State Director
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United States Department of the Interior
Utah State Office
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Salt Lake City, UT 84145-0155

Mr. Chester Mills, Superintendent
Bureau of Indian Affairs
Uintah and Ouray Agency
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Fort Duchesne, UT 84026

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Pocatello, ID 83205-6119

cc: PFS EIS

Glenn Carpenter, Supervisor
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Salt Lake District Office
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Chester Mills, Superintendent
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Unitah and Ouray Agency
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Fort Duschesne, UT 84026

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Oak Ridge National Laboratory
Oak Ridge, TN 37831-6200

Michael J. Scott, Staff Scientist
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MSIN: K8-17
Richland, WA 99352

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Attorney for Ohngo Gaudadeh Devia
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Pocatello, ID 83205-6119

OGC LIST OF THIRD PARTIES FOR CERTIFICATE OF SERVICE

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P. O. Box 6119
Pocatello, ID 83205-6119

MOA SIGNATORY PARTIES

Glenn Carpenter, Field Office Manager
U.S. Bureau of Land Management
Salt Lake District Office
2370 South 2300 West
Salt Lake City, UT 84119

Wayne Nordwall, Director
U.S. Bureau of Indian Affairs
Phoenix Area Office
400 North 5th Street, 14th Floor
Phoenix, AZ 85004

Phyllis Johnson-Ball, Project Manager
Surface Transportation Board
Section of Environmental Analysis
1925 "K" Street, NW, 5th Floor
Washington, DC 20423

The Honorable Leon D. Bear, Chairman
and Tribal Historic Preservation Officer
Skull Valley Band of Goshute Indians
2480 South Main, No. 110
Salt Lake City, UT 84115

Mr. John Harja, Executive Director
Resource Development Coordinating
Committee
State of Utah
State Office Building, Room 5110
Salt Lake City, UT 84114

Mr. John D. Parkyn
Chairman of the Board
Private Fuel Storage, L.L.C.
3200 East Avenue South
La Crosse, WI 54602-0817

Ms. Carol Legard
Federal Highway Administration Liaison
Advisory Council on Historic Preservation
1100 Pennsylvania Ave. NW, Room 809
Washington DC 20004

MOA CONCURRING PARTIES

The Honorable Amos Murphy, Chairman
Confederated Tribes of the Goshute
Reservation
P.O. Box 6104
Ibapah, UT 84034

The Honorable Felix Ike, Chairperson
Tribal Council of the Te-Moak Tribe
of Western Shoshone Indians of Nevada
525 Sunset Street
Elko, NV 89801

Mr. Ron Andersen, Chairman
Utah Historic Trails Consortium
3651 Jasmine Street
Salt Lake City, UT 84120

Ms. Margene Bullcreek
Ohngo Gaudadeh Devia
P.O. Box 155
Tooele, UT 84074

Mr. Jere Krakow, Superintendent
National Park Service
Long Distance Trails Office
324 South State Street, Suite 250
P.O. Box 45155
Salt Lake City, UT 84145-0155

The Honorable Lara Tom, Chairperson
Paiute Indian Tribe of Utah
440 North Paiute Drive
Cedar City, UT 84720

Mr. Duane Carling, President
The Lincoln Highway Association
Utah Chapter
617 West 1900 North
Farrington, UT 84025

Mr. Jon Eldredge, President
The Oregon California Trail Association
Utah Crossroads Chapter
2553 West Vista Meadows Drive
Riverton, UT 84065

Mr. Jesse G. Petersen, President
The Lincoln Highway Association
56 Bench Mark Village
Tooele, UT 84074

Enclosure 1

1. Memorandum of Agreement (without the draft treatment and discovery plans, which were previously transmitted to the ACHP by letter of May 26, 2005)

2. Letter to S. Brown (NRC) from G. Carpenter (BLM) dated August 4, 2005

3. Letter to G. Carpenter (BLM) from J. Harja (Utah) dated June 7, 2005

4. Letter to J. Harja (Utah) from S. Brown (NRC) dated June 2, 2005

5. Letter to G. Carpenter (BLM), and other addressees, from S. Brown (NRC) dated May 26, 2005

6. Letter to J. Parkyn (PFS) from M. Delligatti (NRC) dated January 24, 2003

7. Letter to L. Bear (Skull Valley Band of Goshute Indians) from F. Mainella (DOI) dated October 1, 2003

8. Final Environmental Impact Statement (NUREG-1714), dated December 2001 (CD version)

United States Department of the Interior
BUREAU OF LAND MANAGEMENT
Salt Lake Field Office
2370 South 2300 West
Salt Lake City, Utah 84119
ph: (801) 977-4300; Fax: (801) 977-4397
www.ut.blm.gov/saltlake_fo

TAKE PRIDE IN AMERICA

In Reply Refer To:
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UT-023

AUG 04 2005

Mr. Stewart W. Brown, Senior Project Manager
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety and Safegaurds
11555 Rockville Pike
Rockville, MD 20852-2738

Dear Mr. Brown:

I apologize for the delay in responding to your letter dated May 26, 2005 (received June 3) concerning the Memorandum of Agreement (MOA) for the Proposed Private Fuels Storage Project (PFS), Section 106, National Historic Preservation Act compliance. With the retirement of Alice Stephenson, Salt Lake Field Office (SLFO) NEPA Coordinator, and changes in the Cultural Resources Program processes, it has taken some time for implementation to occur. Pam Schuller, the current NEPA Coordinator and Peter Ainsworth, Cultural Resources Program Lead, have been assigned to work on the Proposed Private Fuels Storage Project. Please feel free to contact either of them as the need arises.

I have several concerns with the MOA and the Treatment Plan which need to be addressed in advance of my signing the document. The biggest concern I have is the remaining issue of the SLFO being prohibited from conducting land use planning in the Skull Valley area. This is due to the provisions of the National Defense Appropriation Act which have prevented us from concluding our land use plan amendment. It is felt that signing the MOA could be construed as pre-decisional planning for the proposed rail line. We may be able to mitigate by including language in the MOA which allows Bureau of Land Management (BLM) to later complete its action regarding land use planning. BLM will not make a decision to authorize the construction of the railroad until after the Moratorium is lifted.

I am also concerned about the current state of the Treatment Plan. My understanding is that there have been no changes made to the Treatment Plan especially in regards to the comments made by the Advisory Council for Historic Preservation and comments made by my staff. It appears at least one more draft of the Treatment Plan is needed. To reiterate, we have a significant concern regarding the Treatment Plan and how it places a disproportionate requirement upon PFS for mitigation of impacts which result essentially only from the proposed construction of a rail line across BLM land. I have heard that PFS is willing to undertake the high dollar actions identified in the current draft Treatment Plan. If they wish to do so of their

own volition and develop an agreement with Native American interests which would result in a final product which addresses more than the proposed impacts in Skull Valley, that is laudable. I am willing to agree to a Treatment Plan and would direct Mr. Ainsworth to participate in its development if it is responsive to Native American concerns about cultural and physical impacts resulting from the action. However, the plan as proposed is so disproportionate it seems nearly punitive by comparison to the actual impacts of the proposal.

We look forward to working with you. If you have any concerns or questions please contact Peter Ainsworth at 801-977-4331 or Pam Schuller at 801-977-4356.

Sincerely,

Glenn A. Carpenter
Field Manager

State of Utah

JON M. HUNTSMAN, JR.
Governor

GARY R. HERBERT
Lieutenant Governor

Office of The Governor
PUBLIC LANDS POLICY COORDINATION

LYNN STEVENS
Public Lands Policy Coordinator

June 7, 2005

Glenn Carpenter, Field Office Manager
U.S. Bureau of Land Management
Salt Lake District Office
2370 South 2300 West
Salt Lake City UT 84119

Re: Section 106 Agreement for the Proposed Private Fuel Storage Project

Dear Mr. Carpenter:

The State of Utah has received two letters from Stewart W. Brown, Senior Project Manager at the Nuclear Regulatory Commission, dated May 26 (received June 3) and June 2, 2005 relating to a Memorandum of Agreement under Section 106 of the National Historic Preservation Act. Mr. Brown enclosed an draft amended Memorandum of Agreement designed to be executed among various federal agencies and other entities and the Utah State Historic Preservation Officer, relating to the proposed Private Fuel Storage (PFS) project. Mr. Brown requested that I sign the amended Memorandum of Agreement and return it to him within 10 days of the date of the letter.

I am responding to the BLM because, as delineated in the proposed Memorandum of Agreement (*see* third whereas clause), BLM is "the lead Federal agency for purpose of compliance with Section 106 of the National Historic Preservation Act."

The State of Utah believes that it is premature to enter into this proposed Section 106 Memorandum of Agreement at this time. As is the usual practice, review of the Section 106 proposals should proceed concurrently with the review of the applications for any rights-of-way or other BLM authorizations by PFS and the required amendment to BLM's Pony Express Resource Management Plan. Because the proposed Section 106 Agreement is an implementation instrument, the most logical course is to evaluate the mitigation measures for cultural resources

5110 State Office Building, Salt Lake City, Utah 84114 • telephone (801) 537-9230 • facsimile (801) 537-9226

concurrently with mitigation measures for all other resources and social impacts that will be considered (but not yet proposed) as part of the required BLM evaluation of the PFS project.

Sincerely,

John Harja
Assistant Director
Public Lands Policy Coordination Office
Office of the Governor
State Historic Preservation Officer; PFS Project

cc: Stewart W. Brown, Senior Project Manager
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety and Safeguards
U.S. Nuclear Regulatory Commission
Washington DC 20555-0001

Ms. Sally Wisely, State Director
Bureau of Land Management
United States Department of Interior
Utah State Office
P.O. Box 45155
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Dr. Dianne Nielson
Executive Director
Department of Environmental Quality
State of Utah
169 North 1950 West
P.O. Box 144810
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Wilson Martin
Associate Director
Division of State History
State of Utah

June 2, 2005

Mr. John Harja, Executive Director
Resource Development Coordinating Committee
State of Utah
State Office Building, Room 5110
Salt Lake City, UT 84114

SUBJECT: FINAL MEMORANDUM OF AGREEMENT FOR THE PROPOSED PRIVATE FUEL STORAGE FACILITY

Dear Mr. Harja:

By letters dated December 1, 2000, and June 19, 2001, the staff of the U.S. Nuclear Regulatory Commission (NRC), in cooperation with the U.S. Department of Interior's Bureau of Indian Affairs (BIA) and Bureau of Land Management (BLM), and the Surface Transportation Board (STB), (collectively, the cooperating Federal agencies), requested comments regarding a draft Memorandum of Agreement (Agreement) that outlines agreed-upon measures that Private Fuel Storage, L.L.C., will take to avoid, minimize, or mitigate adverse effects of the proposed project. Based on the comments received from the consulting parties, the Agreement was revised.

By letter dated January 24, 2003, the State of Utah's State Historical Preservation Officer's (SHPO) signature was requested on the copy of the final Agreement. As discussed in our telephone conversation on April 6, 2005, I have enclosed for your signature, a revised final Agreement which extends the termination date in Section IX, Termination, of the final Agreement to January 1, 2010. This change in the Agreement is marked with a sidebar. As the State of Utah's SHPO for the proposed Private Fuel Storage Facility, we would appreciate your signature, within 10 days from the date of this letter, on the final Agreement. Should I not hear from you within 10 days, I will assume that the State of Utah has withdrawn from the Section 106 consultation process for the Private Fuel Storage proposal. Please note that any site location information contained in the draft Treatment Plan may not be released to the general public under Federal law, and it is essential that this information be protected.

If you have any questions, please contact Melanie Wong (NRC) at (301) 415-6262, Laird Naylor (BLM) at (801) 977-4357, Garry Cantley (BIA) at (602) 379-6750, or Phillis Johnson-Ball (STB) at (202) 565-1530.

Sincerely,

/RA/

Stewart W. Brown, Senior Project Manager
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-22
Enclosure: Final Memorandum of Agreement
cc: Wilson G. Martin, Dept of Community and Economic Development
James L. Dykmann, Cultural Resource Coordinator
PFS Service Lists (w/o appendix 2)

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

May 26, 2005

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UINTAH AND OURAY
AGENCY
Superintendent

Glenn Carpenter, Field Office Manager
U.S. Bureau of Land Management
Salt Lake District Office
2370 South 2300 West
Salt Lake City, UT 84119

SUBJECT: FINAL MEMORANDUM OF AGREEMENT FOR THE PROPOSED PRIVATE FUEL STORAGE FACILITY

Dear Mr. Carpenter:

By letters dated December 1, 2000 and June 19, 2001, the staff of the U.S. Nuclear Regulatory Commission, in cooperation with the U.S. Department of Interior's Bureau of Indian Affairs and Bureau of Land Management, and the Surface Transportation Board, (collectively, the cooperating Federal agencies), requested comments from the signatories and concurring parties regarding a draft Memorandum of Agreement (Agreement) that outlines agreed-upon measures that Private Fuel Storage, L.L.C., will take to avoid, minimize, or mitigate adverse effects of the proposed project. Based on the comments received from the consulting parties, the Agreement was revised.

By letter dated January 24, 2003, a copy of the final Agreement was provided to you. Enclosed for your signature is a revised final Agreement which extends the termination date in Section IX, Termination, of the final Agreement to January 1, 2010. This change in the Agreement is marked with a sidebar. We would appreciate your signature, within 10 days from the date of this letter, on the final Agreement. Please note that any site location information contained in the draft Treatment Plan may not be released to the general public under Federal law, and it is essential that this information be protected.

If you have any questions concerning this request and this Agreement, please contact Melanie Wong at (301) 415-6262.

Sincerely,

Stewart W. Brown

Stewart W. Brown, Senior Project Manager
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-22
Enclosure: Final Memorandum of Agreement
cc: PFS Service Lists (w/o Appendix 2)

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

May 26, 2005

Wayne Nordwall, Director
U.S. Bureau of Indian Affairs
Phoenix Area Office
400 North 5th Street, 14th Floor
Phoenix, AZ 85004

SUBJECT: FINAL MEMORANDUM OF AGREEMENT FOR THE PROPOSED PRIVATE FUEL STORAGE FACILITY

Dear Mr. Nordwall:

By letters dated December 1, 2000 and June 19, 2001, the staff of the U.S. Nuclear Regulatory Commission, in cooperation with the U.S. Department of Interior's Bureau of Indian Affairs and Bureau of Land Management, and the Surface Transportation Board, (collectively, the cooperating Federal agencies), requested comments from the signatories and concurring parties regarding a draft Memorandum of Agreement (Agreement) that outlines agreed-upon measures that Private Fuel Storage, L.L.C., will take to avoid, minimize, or mitigate adverse effects of the proposed project. Based on the comments received from the consulting parties, the Agreement was revised.

By letter dated January 24, 2003, your signature was requested on the copy of the final Agreement. On February 19, 2003, the U.S. Bureau of Indian Affairs signed the Agreement. Enclosed for your signature is a revised final Agreement which extends the termination date in Section IX, Termination, of the final Agreement to January 1, 2010. This change in the Agreement is marked with a sidebar. We would appreciate your signature, within 10 days from the date of this letter, on the final Agreement. Please note that any site location information contained in the draft Treatment Plan may not be released to the general public under Federal law, and it is essential that this information be protected.

If you have any questions concerning this request and this Agreement, please contact Melanie Wong at (301) 415-6262.

Sincerely,

Stewart W. Brown

Stewart W. Brown, Senior Project Manager
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-22
Enclosure: Final Memorandum of Agreement
cc: PFS Service Lists (w/o Appendix 2)

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

May 26, 2005

Phyllis Johnson-Ball, Project Manager
Surface Transportation Board
Section of Environmental Analysis
1925 "K" Street, NW, 5th Floor
Washington, DC 20423

SUBJECT: FINAL MEMORANDUM OF AGREEMENT FOR THE PROPOSED PRIVATE FUEL STORAGE FACILITY

Dear Ms. Johnson-Ball:

By letters dated December 1, 2000 and June 19, 2001, the staff of the U.S. Nuclear Regulatory Commission, in cooperation with the U.S. Department of Interior's Bureau of Indian Affairs and Bureau of Land Management, and the Surface Transportation Board, (collectively, the cooperating Federal agencies), requested comments from the signatories and concurring parties regarding a draft Memorandum of Agreement (Agreement) that outlines agreed-upon measures that Private Fuel Storage, L.L.C., will take to avoid, minimize, or mitigate adverse effects of the proposed project. Based on the comments received from the consulting parties, the Agreement was revised.

By letter dated January 24, 2003, your signature was requested on the copy of the final Agreement. On February 21, 2003, the Surface Transportation Board signed the Agreement. Enclosed for your signature is a revised final Agreement which extends the termination date in Section IX, Termination, of the final Agreement to January 1, 2010. This change in the Agreement is marked with a sidebar. We would appreciate your signature, within 10 days from the date of this letter, on the final Agreement. Please note that any site location information contained in the draft Treatment Plan may not be released to the general public under Federal law, and it is essential that this information be protected.

If you have any questions concerning this request and this Agreement, please contact Melanie Wong at (301) 415-6262.

Sincerely,

Stewart W. Brown

Stewart W. Brown, Senior Project Manager
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-22
Enclosure: Final Memorandum of Agreement
cc: PFS Service Lists (w/o Appendix 2)

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

May 26, 2005

Ms. Carol Legard
Federal Highway Administration Liaison
Advisory Council on Historic Preservation
1100 Pennsylvania Ave. NW, Room 809
Washington DC 20004

SUBJECT: FINAL MEMORANDUM OF AGREEMENT FOR THE PROPOSED PRIVATE FUEL STORAGE FACILITY

Dear Ms. Legard:

By letters dated December 1, 2000, and June 19, 2001, the staff of the U.S. Nuclear Regulatory Commission (NRC), in cooperation with the U.S. Department of Interior's Bureau of Indian Affairs (BIA) and Bureau of Land Management (BLM), and the Surface Transportation Board (STB), (collectively, the cooperating Federal agencies), requested your comments regarding a draft Memorandum of Agreement (Agreement) that outlines agreed-upon measures that Private Fuel Storage, L.L.C., will take to avoid, minimize, or mitigate adverse effects of the proposed project. Based on the comments received from the consulting parties, the Agreement was revised.

By letter dated January 24, 2003, your signature was requested on the copy of the final Agreement. Enclosed for your signature is a revised final Agreement which extends the termination date in Section IX, Termination, of the final Agreement to January 1, 2010. This change in the Agreement is marked with a sidebar. We would appreciate your signature, within 10 days from the date of this letter, on the final Agreement. Please note that any site location information contained in the draft Treatment Plan may not be released to the general public under Federal law, and it is essential that this information be protected.

If you have any questions, please contact Melanie Wong (NRC) at (301) 415-6262, Laird Naylor (BLM) at (801) 977-4357, Garry Cantley (BIA) at (602) 379-6750, or Phillis Johnson-Ball (STB) at (202) 565-1530.

Sincerely,

Stewart W. Brown

Stewart W. Brown, Senior Project Manager
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-22

Enclosure: Final Memorandum of Agreement

cc: PFS Service Lists (w/o Appendix 2)

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

May 26, 2005

Mr. John D. Parkyn
Chairman of the Board
Private Fuel Storage, L.L.C.
3200 East Avenue South
La Crosse, WI 54602-0817

SUBJECT: FINAL MEMORANDUM OF AGREEMENT FOR THE PROPOSED PRIVATE FUEL STORAGE FACILITY

Dear Mr. Parkyn:

By letters dated December 1, 2000, and June 19, 2001, the staff of the U.S. Nuclear Regulatory Commission (NRC), in cooperation with the U.S. Department of Interior's Bureau of Indian Affairs (BIA) and Bureau of Land Management (BLM), and the Surface Transportation Board (STB), (collectively, the cooperating Federal agencies), requested your comments regarding a draft Memorandum of Agreement (Agreement) that outlines agreed-upon measures that Private Fuel Storage, L.L.C., will take to avoid, minimize, or mitigate adverse effects of the proposed project. Based on the comments received from the consulting parties, the Agreement was revised.

By letter dated January 24, 2003, your signature was requested on the copy of the final Agreement. On February 3, 2003, Private Fuel Storage, L.L.C. signed the Agreement. Enclosed for your signature is a revised final Agreement which extends the termination date in Section IX, Termination, of the final Agreement to January 1, 2010. This change in the Agreement is marked with a sidebar. We would appreciate your signature, within 10 days from the date of this letter, on the final Agreement. Please note that any site location information contained in the draft Treatment Plan may not be released to the general public under Federal law, and it is essential that this information be protected.

If you have any questions, please contact Melanie Wong (NRC) at (301) 415-6262, Laird Naylor (BLM) at (801) 977-4357, Garry Cantley (BIA) at (602) 379-6750, or Phillis Johnson-Ball (STB) at (202) 565-1530.

Sincerely,

Stewart W. Brown

Stewart W. Brown, Senior Project Manager
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-22

Enclosure: Final Memorandum of Agreement

cc: PFS Service Lists (w/o Appendix 2)

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

May 26, 2005

The Honorable Leon D. Bear, Chairman
and Tribal Historic Preservation Officer
Skull Valley Band of Goshute Indians
2480 South Main, No. 110
Salt Lake City, UT 84115

SUBJECT: FINAL MEMORANDUM OF AGREEMENT FOR THE PROPOSED PRIVATE FUEL STORAGE FACILITY

Dear Mr. Bear:

By letters dated December 1, 2000, and June 19, 2001, the staff of the U.S. Nuclear Regulatory Commission (NRC), in cooperation with the U.S. Department of Interior's Bureau of Indian Affairs (BIA) and Bureau of Land Management (BLM), and the Surface Transportation Board (STB), (collectively, the cooperating Federal agencies), requested your comments regarding a draft Memorandum of Agreement (Agreement) that outlines agreed-upon measures that Private Fuel Storage, L.L.C., will take to avoid, minimize, or mitigate adverse effects of the proposed project. Based on the comments received from the consulting parties, the Agreement was revised.

By letter dated January 24, 2003, your signature was requested on the copy of the final Agreement. On January 31, 2003, the Skull Valley Band of Goshute Indians signed the Agreement. Enclosed for your signature is a revised final Agreement which extends the termination date in Section IX, Termination, of the final Agreement to January 1, 2010. This change in the Agreement is marked with a sidebar. We would appreciate your signature, within 10 days from the date of this letter, on the final Agreement. Please note that any site location information contained in the draft Treatment Plan may not be released to the general public under Federal law, and it is essential that this information be protected.

If you have any questions, please contact Melanie Wong (NRC) at (301) 415-6262, Laird Naylor (BLM) at (801) 977-4357, Garry Cantley (BIA) at (602) 379-6750, or Phillis Johnson-Ball (STB) at (202) 565-1530.

Sincerely,

Stewart W. Brown

Stewart W. Brown, Senior Project Manager
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-22

Enclosure: Final Memorandum of Agreement

cc: PFS Service Lists (w/o Appendix 2)

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

May 26, 2005

Mr. John Marja, Executive Director
Resource Development Coordinating Committee
State of Utah
State Office Building, Room 5710
Salt Lake City, UT 84114

SUBJECT: FINAL MEMORANDUM OF AGREEMENT FOR THE PROPOSED PRIVATE FUEL STORAGE FACILITY

Dear Mr. Marja:

By letters dated December 1, 2000, and June 19, 2001, the staff of the U.S. Nuclear Regulatory Commission (NRC), in cooperation with the U.S. Department of Interior's Bureau of Indian Affairs (BIA) and Bureau of Land Management (BLM), and the Surface Transportation Board (STB), (collectively, the cooperating Federal agencies), requested comments regarding a draft Memorandum of Agreement (Agreement) that outlines agreed-upon measures that Private Fuel Storage, L.L.C., will take to avoid, minimize, or mitigate adverse effects of the proposed project. Based on the comments received from the consulting parties, the Agreement was revised.

By letter dated January 24, 2003, the State of Utah's State Historical Preservation Officer's (SHPO) signature was requested on the copy of the final Agreement. As discussed in our telephone conversation on April 6, 2005, I have enclosed for your signature, a revised final Agreement which extends the termination date in Section IX, Termination, of the final Agreement to January 1, 2010. This change in the Agreement is marked with a sidebar. As the State of Utah's SHPO for the proposed Private Fuel Storage Facility, we would appreciate your signature, within 10 days from the date of this letter, on the final Agreement. Should I not hear from you within 10 days, I will assume that the State of Utah has withdrawn from the Section 106 consultation process for the Private Fuel Storage proposal. Please note that any site location information contained in the draft Treatment Plan may not be released to the general public under Federal law, and it is essential that this information be protected.

If you have any questions, please contact Melanie Wong (NRC) at (301) 415-6262, Laird Naylor (BLM) at (801) 977-4357, Garry Cantley (BIA) at (602) 379-6750, or Phillis Johnson-Ball (STB) at (202) 565-1530.

Sincerely,

Stewart W. Brown

Stewart W. Brown, Senior Project Manager
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-22
Enclosure: Final Memorandum of Agreement
cc: Wilson G. Martin, Dept of Community and Economic Development
James L. Dykmann, Cultural Resource Coordinator
PFS Service Lists (w/o Appendix 2)

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

May 26, 2005

Mr. Jere Krakow, Superintendent
National Park Service
Long Distance Trails Office
324 South State Street, Suite 250
P.O. Box 45155
Salt Lake City, UT 84145-0155

SUBJECT: FINAL MEMORANDUM OF AGREEMENT FOR THE PROPOSED PRIVATE FUEL STORAGE FACILITY

Dear Mr. Krakow:

By letters dated December 1, 2000, and June 19, 2001, the staff of the U.S. Nuclear Regulatory Commission (NRC), in cooperation with the U.S. Department of Interior's Bureau of Indian Affairs (BIA) and Bureau of Land Management (BLM), and the Surface Transportation Board (STB), (collectively, the cooperating Federal agencies), requested your comments regarding a draft Memorandum of Agreement (Agreement) that outlines agreed-upon measures that Private Fuel Storage, L.L.C., will take to avoid, minimize, or mitigate adverse effects of the proposed project. Based on the comments received from the consulting parties, the Agreement was revised.

By letter dated January 24, 2003, your signature was requested on the copy of the final Agreement. On February 26, 2003, the National Park Service signed the Agreement. Enclosed for your signature is a revised final Agreement which extends the termination date in Section IX, Termination, of the final Agreement to January 1, 2010. This change in the Agreement is marked with a sidebar. We would appreciate your signature, within 10 days from the date of this letter, on the final Agreement. Please note that any site location information contained in the draft Treatment Plan may not be released to the general public under Federal law, and it is essential that this information be protected.

If you have any questions, please contact Melanie Wong (NRC) at (301) 415-6262, Laird Naylor (BLM) at (801) 977-4357, Garry Cantley (BIA) at (602) 379-6750, or Phillis Johnson-Ball (STB) at (202) 565-1530.

Sincerely,

Stewart W. Brown

Stewart W. Brown, Senior Project Manager
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-22

Enclosure: Final Memorandum of Agreement

cc: PFS Service Lists (w/o Appendix 2)

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

May 26, 2005

The Honorable Felix Ike, Chairperson
Tribal Council of the Te-Moak Tribe
of Western Shoshone Indians of Nevada
525 Sunset Street
Elko, NV 89801

SUBJECT: FINAL MEMORANDUM OF AGREEMENT FOR THE PROPOSED PRIVATE FUEL STORAGE FACILITY

Dear Mr. Ike:

By letters dated December 1, 2000, and June 19, 2001, the staff of the U.S. Nuclear Regulatory Commission (NRC), in cooperation with the U.S. Department of Interior's Bureau of Indian Affairs (BIA) and Bureau of Land Management (BLM), and the Surface Transportation Board (STB), (collectively, the cooperating Federal agencies), requested your comments regarding a draft Memorandum of Agreement (Agreement) that outlines agreed-upon measures that Private Fuel Storage, L.L.C., will take to avoid, minimize, or mitigate adverse effects of the proposed project. Based on the comments received from the consulting parties, the Agreement was revised.

By letter dated January 24, 2003, your signature was requested on the copy of the final Agreement. Enclosed for your signature is a revised final Agreement which extends the termination date in Section IX, Termination, of the final Agreement to January 1, 2010. This change in the Agreement is marked with a sidebar. We would appreciate your signature, within 10 days from the date of this letter, on the final Agreement. Please note that any site location information contained in the draft Treatment Plan may not be released to the general public under Federal law, and it is essential that this information be protected.

If you have any questions, please contact Melanie Wong (NRC) at (301) 415-6262, Laird Naylor (BLM) at (801) 977-4357, Garry Cantley (BIA) at (602) 379-6750, or Phillis Johnson-Ball (STB) at (202) 565-1530.

Sincerely,

Stewart W. Brown

Stewart W. Brown, Senior Project Manager
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-22

Enclosure: Final Memorandum of Agreement

cc: PFS Service Lists (w/o Appendix 2)

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

May 26, 2005

The Honorable Lara Tom, Chairperson
Paiute Indian Tribe of Utah
440 North Paiute Drive
Cedar City, UT 84720

SUBJECT: FINAL MEMORANDUM OF AGREEMENT FOR THE PROPOSED PRIVATE FUEL STORAGE FACILITY

Dear Ms. Tom:

By letters dated December 1, 2000, and June 19, 2001, the staff of the U.S. Nuclear Regulatory Commission (NRC), in cooperation with the U.S. Department of Interior's Bureau of Indian Affairs (BIA) and Bureau of Land Management (BLM), and the Surface Transportation Board (STB), (collectively, the cooperating Federal agencies), requested your comments regarding a draft Memorandum of Agreement (Agreement) that outlines agreed-upon measures that Private Fuel Storage, L.L.C., will take to avoid, minimize, or mitigate adverse effects of the proposed project. Based on the comments received from the consulting parties, the Agreement was revised.

By letter dated January 24, 2003, your signature was requested on the copy of the final Agreement. Enclosed for your signature is a revised final Agreement which extends the termination date in Section IX, Termination, of the final Agreement to January 1, 2010. This change in the Agreement is marked with a sidebar. We would appreciate your signature, within 10 days from the date of this letter, on the final Agreement. Please note that any site location information contained in the draft Treatment Plan may not be released to the general public under Federal law, and it is essential that this information be protected.

If you have any questions, please contact Melanie Wong (NRC) at (301) 415-6262, Laird Naylor (BLM) at (801) 977-4357, Garry Cantley (BIA) at (602) 379-6750, or Phillis Johnson-Ball (STB) at (202) 565-1530.

Sincerely,

Stewart W. Brown

Stewart W. Brown, Senior Project Manager
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-22

Enclosure: Final Memorandum of Agreement

cc: PFS Service Lists (w/o Appendix 2)

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

May 26, 2005

Mr. Ron Andersen, Chairman
Utah Historic Trails Consortium
3651 Jasmine Street
Salt Lake City, UT 84120

SUBJECT: FINAL MEMORANDUM OF AGREEMENT FOR THE PROPOSED PRIVATE FUEL STORAGE FACILITY

Dear Mr. Andersen:

By letters dated December 1, 2000, and June 19, 2001, the staff of the U.S. Nuclear Regulatory Commission (NRC), in cooperation with the U.S. Department of Interior's Bureau of Indian Affairs (BIA) and Bureau of Land Management (BLM), and the Surface Transportation Board (STB), (collectively, the cooperating Federal agencies), requested your comments regarding a draft Memorandum of Agreement (Agreement) that outlines agreed-upon measures that Private Fuel Storage, L.L.C., will take to avoid, minimize, or mitigate adverse effects of the proposed project. Based on the comments received from the consulting parties, the Agreement was revised.

By letter dated January 24, 2003, your signature was requested on the copy of the final Agreement. On February 26, 2003, the Utah Historic Trails Consortium signed the Agreement. Enclosed for your signature is a revised final Agreement which extends the termination date in Section IX, Termination, of the final Agreement to January 1, 2010. This change in the Agreement is marked with a sidebar. We would appreciate your signature, within 10 days from the date of this letter, on the final Agreement. Please note that any site location information contained in the draft Treatment Plan may not be released to the general public under Federal law, and it is essential that this information be protected.

If you have any questions, please contact Melanie Wong (NRC) at (301) 415-6262, Laird Naylor (BLM) at (801) 977-4357, Garry Cantley (BIA) at (602) 379-6750, or Phillis Johnson-Ball (STB) at (202) 565-1530.

Sincerely,

Stewart W. Brown

Stewart W. Brown, Senior Project Manager
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-22

Enclosure: Final Memorandum of Agreement

cc: PFS Service Lists (w/o Appendix 2)

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

May 26, 2005

Mr. Duane Carling, President
The Lincoln Highway Association
Utah Chapter
617 West 1900 North
Farrington, UT 84025

SUBJECT: FINAL MEMORANDUM OF AGREEMENT FOR THE PROPOSED PRIVATE FUEL STORAGE FACILITY

Dear Mr. Carling:

By letters dated December 1, 2000, and June 19, 2001, the staff of the U.S. Nuclear Regulatory Commission (NRC), in cooperation with the U.S. Department of Interior's Bureau of Indian Affairs (BIA) and Bureau of Land Management (BLM), and the Surface Transportation Board (STB), (collectively, the cooperating Federal agencies), requested your comments regarding a draft Memorandum of Agreement (Agreement) that outlines agreed-upon measures that Private Fuel Storage, L.L.C., will take to avoid, minimize, or mitigate adverse effects of the proposed project. Based on the comments received from the consulting parties, the Agreement was revised.

By letter dated January 24, 2003, your signature was requested on the copy of the final Agreement. Enclosed for your signature is a revised final Agreement which extends the termination date in Section IX, Termination, of the final Agreement to January 1, 2010. This change in the Agreement is marked with a sidebar. We would appreciate your signature, within 10 days from the date of this letter, on the final Agreement. Please note that any site location information contained in the draft Treatment Plan may not be released to the general public under Federal law, and it is essential that this information be protected.

If you have any questions, please contact Melanie Wong (NRC) at (301) 415-6262, Laird Naylor (BLM) at (801) 977-4357, Garry Cantley (BIA) at (602) 379-6750, or Phillis Johnson-Ball (STB) at (202) 565-1530.

Sincerely,

Stewart W. Brown

Stewart W. Brown, Senior Project Manager
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-22

Enclosure: Final Memorandum of Agreement

cc: PFS Service Lists (w/o Appendix 2)

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

May 26, 2005

Mr. Jon Eldredge, President
The Oregon California Trail Association
Utah Crossroads Chapter
2553 West Vista Meadows Drive
Riverton, UT 84065

SUBJECT: FINAL MEMORANDUM OF AGREEMENT FOR THE PROPOSED PRIVATE FUEL STORAGE FACILITY

Dear Mr. Eldredge:

By letters dated December 1, 2000, and June 19, 2001, the staff of the U.S. Nuclear Regulatory Commission (NRC), in cooperation with the U.S. Department of Interior's Bureau of Indian Affairs (BIA) and Bureau of Land Management (BLM), and the Surface Transportation Board (STB), (collectively, the cooperating Federal agencies), requested your comments regarding a draft Memorandum of Agreement (Agreement) that outlines agreed-upon measures that Private Fuel Storage, L.L.C., will take to avoid, minimize, or mitigate adverse effects of the proposed project. Based on the comments received from the consulting parties, the Agreement was revised.

By letter dated January 24, 2003, your signature was requested on the copy of the final Agreement. Enclosed for your signature is a revised final Agreement which extends the termination date in Section IX, Termination, of the final Agreement to January 1, 2010. This change in the Agreement is marked with a sidebar. We would appreciate your signature, within 10 days from the date of this letter, on the final Agreement. Please note that any site location information contained in the draft Treatment Plan may not be released to the general public under Federal law, and it is essential that this information be protected.

If you have any questions, please contact Melanie Wong (NRC) at (301) 415-6262, Laird Naylor (BLM) at (801) 977-4357, Garry Cantley (BIA) at (602) 379-6750, or Phillis Johnson-Ball (STB) at (202) 565-1530.

Sincerely,

Stewart W. Brown

Stewart W. Brown, Senior Project Manager
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-22

Enclosure: Final Memorandum of Agreement

cc: PFS Service Lists (w/o Appendix 2)

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

May 26, 2005

The Honorable Amos Murphy, Chairman
Confederated Tribes of the Goshute Reservation
P.O. Box 6104
Ibapah, UT 84034

SUBJECT: FINAL MEMORANDUM OF AGREEMENT FOR THE PROPOSED PRIVATE FUEL STORAGE FACILITY

Dear Mr. Murphy:

By letters dated December 1, 2000, and June 19, 2001, the staff of the U.S. Nuclear Regulatory Commission (NRC), in cooperation with the U.S. Department of Interior's Bureau of Indian Affairs (BIA) and Bureau of Land Management (BLM), and the Surface Transportation Board (STB), (collectively, the cooperating Federal agencies), requested your comments regarding a draft Memorandum of Agreement (Agreement) that outlines agreed-upon measures that Private Fuel Storage, L.L.C., will take to avoid, minimize, or mitigate adverse effects of the proposed project. Based on the comments received from the consulting parties, the Agreement was revised.

By letter dated January 24, 2003, your signature was requested on the copy of the final Agreement. Enclosed for your signature is a revised final Agreement which extends the termination date in Section IX, Termination, of the final Agreement to January 1, 2010. This change in the Agreement is marked with a sidebar. We would appreciate your signature, within 10 days from the date of this letter, on the final Agreement. Please note that any site location information contained in the draft Treatment Plan may not be released to the general public under Federal law, and it is essential that this information be protected.

If you have any questions, please contact Melanie Wong (NRC) at (301) 415-6262, Laird Naylor (BLM) at (801) 977-4357, Garry Cantley (BIA) at (602) 379-6750, or Phillis Johnson-Ball (STB) at (202) 565-1530.

Sincerely,

Stewart W. Brown

Stewart W. Brown, Senior Project Manager
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-22

Enclosure: Final Memorandum of Agreement

cc: PFS Service Lists (w/o Appendix 2)

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

May 26, 2005

Mr. Jesse G. Petersen, President
The Lincoln Highway Association
56 Bench Mark Village
Tooele, UT 84074

SUBJECT: FINAL MEMORANDUM OF AGREEMENT FOR THE PROPOSED PRIVATE FUEL STORAGE FACILITY

Dear Mr. Petersen:

By letters dated December 1, 2000, and June 19, 2001, the staff of the U.S. Nuclear Regulatory Commission (NRC), in cooperation with the U.S. Department of Interior's Bureau of Indian Affairs (BIA) and Bureau of Land Management (BLM), and the Surface Transportation Board (STB), (collectively, the cooperating Federal agencies), requested your comments regarding a draft Memorandum of Agreement (Agreement) that outlines agreed-upon measures that Private Fuel Storage, L.L.C., will take to avoid, minimize, or mitigate adverse effects of the proposed project. Based on the comments received from the consulting parties, the Agreement was revised.

By letter dated January 24, 2003, your signature was requested on the copy of the final Agreement. Enclosed for your signature is a revised final Agreement which extends the termination date in Section IX, Termination, of the final Agreement to January 1, 2010. This change in the Agreement is marked with a sidebar. We would appreciate your signature, within 10 days from the date of this letter, on the final Agreement. Please note that any site location information contained in the draft Treatment Plan may not be released to the general public under Federal law, and it is essential that this information be protected.

If you have any questions, please contact Melanie Wong (NRC) at (301) 415-6262, Laird Naylor (BLM) at (801) 977-4357, Garry Cantley (BIA) at (602) 379-6750, or Phillis Johnson-Ball (STB) at (202) 565-1530.

Sincerely,

Stewart W. Brown

Stewart W. Brown, Senior Project Manager
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-22

Enclosure: Final Memorandum of Agreement

cc: PFS Service Lists (w/o Appendix 2)

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

May 26, 2005

Ms. Margene Bullcreek
Ohngo Gaudadeh Devia
P.O. Box 155
Tooele, UT 84074

SUBJECT: FINAL MEMORANDUM OF AGREEMENT FOR THE PROPOSED PRIVATE FUEL STORAGE FACILITY

Dear Ms. Bullcreek:

By letters dated December 2, 2000, and June 19, 2001, the staff of the U.S. Nuclear Regulatory Commission (NRC), in cooperation with the U.S. Department of Interior's Bureau of Indian Affairs (BIA) and Bureau of Land Management (BLM), and the Surface Transportation Board (STB), (collectively, the cooperating Federal agencies), requested your comments regarding a draft Memorandum of Agreement (Agreement) that outlines agreed-upon measures that Private Fuel Storage, L.L.C., will take to avoid, minimize, or mitigate adverse effects of the proposed project. Based on the comments received from the consulting parties, the Agreement was revised.

By letter dated January 24, 2003, your signature was requested on the copy of the final Agreement. Enclosed for your signature is a revised final Agreement which extends the termination date in Section IX, Termination, of the final Agreement to January 1, 2010. This change in the Agreement is marked with a sidebar. We would appreciate your signature, within 10 days from the date of this letter, on the final Agreement. Please note that any site location information contained in the draft Treatment Plan may not be released to the general public under Federal law, and it is essential that this information be protected.

If you have any questions, please contact Melanie Wong (NRC) at (301) 415-6262, Laird Naylor (BLM) at (801) 977-4357, Garry Cantley (BIA) at (602) 379-6750, or Phillis Johnson-Ball (STB) at (202) 565-1530.

Sincerely,

Stewart W. Brown

Stewart W. Brown, Senior Project Manager
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-22

Enclosure: Final Memorandum of Agreement

cc: PFS Service Lists (w/o Appendix 2)

January 24, 2003

Mr. John D. Parkyn
Chairman of the Board
Private Fuel Storage, L.L.C.
3200 East Avenue South
La Crosse, WI 54602-0817

SUBJECT: FINAL MEMORANDUM OF AGREEMENT FOR THE PROPOSED PRIVATE FUEL STORAGE FACILITY

Dear Mr. Parkyn:

By letters dated December 1, 2000, and June 19, 2001, the staff of the U.S. Nuclear Regulatory Commission (NRC), in cooperation with the U.S. Department of Interior's Bureau of Indian Affairs (BIA) and Bureau of Land Management (BLM), and the Surface Transportation Board (STB), (collectively, the cooperating Federal agencies), requested your comments regarding a draft Memorandum of Agreement (Agreement) that outlines agreed-upon measures that Private Fuel Storage, L.L.C. will take to avoid, minimize, or mitigate adverse effects of the proposed project. Based on the comments received from the consulting parties, the Agreement was revised.

Attached to the final Agreement is a draft Treatment Plan and a draft Discovery Plan. Once the Treatment Plan and Discovery Plan have been finalized, they will be forwarded by BLM for your review and comment. Enclosed for your signature is a copy of the final Agreement. The cooperating Federal agencies request your signature, within 10 days, on the final Agreement. Please note that any site location information contained in the draft Treatment Plan may not be released to the general public under Federal law, and it is essential that this information be protected.

If you have any questions, please contact Chester Poslusny (NRC) at (301) 415-1341, Laird Naylor (BLM) at (801) 977-4357, Garry Cantley (BIA) at (602) 379-6750, or Phillis Johnson-Ball (STB) at (202) 565-1530.

Sincerely,
/RA/ original signed by /s/

Mark S. Delligatti, Senior Project Manager
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-22

Enclosure: Final Memorandum of Agreement

cc: PFS Service Lists

United States Department of the Interior

NATIONAL PARK SERVICE
1849 C Street, N.W.
Washington, D.C. 20240

IN REPLY REFER TO:

OCT 1 2003

H32(2255)

Mr. Leon D. Bear, Chairman
Skull Valley Band of Goshute Indians
Tapai Project Office
2480 South Main Street, Suite 110
Salt Lake City, Utah 84115

Dear Chairman Bear:

Congratulations. On behalf of the Secretary of the Interior and the National Park Service, I am pleased to approve the plan of the Skull Valley Band of Goshute Indians for assuming responsibilities pursuant to the National Historic Preservation Act. Enclosed please find a copy of the fully executed agreement by which the Tribe assumes its formal place in the national historic preservation program.

The Skull Valley Band is the 40th tribe to assume historic preservation duties that were previously the responsibility of the State. We look forward to a long and productive relationship with the Tribe in this program, and we hope that additional tribes will follow in your footsteps.

As you may know, there is currently available to tribes assuming these duties a modest amount of funding to help support the work of the Tribal Historic Preservation Officer (THPO). Our Heritage Preservation Services Program will notify you of the amount of funding available to the Tribe for fiscal year 2004, once the FY 2004 budget has been adopted by the Congress and signed by the President. If you have any questions, please contact Bryan Mitchell at (202) 354-2078.

Once again, congratulations and best wishes.

Sincerely,

Fran P. Mainella

Fran P. Mainella
Director

Enclosure

cc: Melvin Brewster

AGREEMENT BETWEEN THE NATIONAL PARK SERVICE, U.S. DEPARTMENT OF THE INTERIOR AND THE SKULL VALLEY BAND OF GOSHUTE INDIANS FOR THE ASSUMPTION BY THE TRIBE OF CERTAIN RESPONSIBILITIES PURSUANT TO THE NATIONAL HISTORIC PRESERVATION ACT (16 U.S.C. 470)

WHEREAS, sovereign Indian tribes are uniquely suited to make decisions about historic resources on tribal lands; and

WHEREAS, enhancing the role of Indian tribes in the national historic preservation partnership will result in a stronger and better national effort to identify and protect historic and cultural resources for future generations of all Americans; and

WHEREAS, Section 101(d)(2) of the National Historic Preservation Act provides that, "A tribe may assume all or any part of the functions of a State Historic Preservation Officer in accordance with subsections (b)(2) and (b)(3), with respect to tribal lands;" and

WHEREAS, in accordance with Section 101(d)(2)(A) of the Act, the Tribal Council of the Skull Valley Band of Goshute Indians has requested approval to assume certain of those functions on tribal lands; and

WHEREAS, in accordance with Section 101(d)(2)(B) of the Act, the Skull Valley Band of Goshute Indians has designated a tribal preservation official to administer the tribal historic preservation program; and

WHEREAS, in accordance with Section 101(d)(2)(C) of the Act, the Skull Valley Band of Goshute Indians has provided to the Secretary acting through the National Park Service a plan that describes how the functions the Tribe proposes to assume will be carried out; and

WHEREAS, in accordance with Section 301 of the Act, "tribal lands" means all lands within the exterior boundaries of the Skull Valley Band of Goshute Indians' Reservation, and any dependent Indian communities formally recognized as such by the Department of the Interior; and

WHEREAS, the National Park Service, on behalf of the Secretary, has reviewed the Skull Valley Band of Goshute Indians' plan for conformance with the applicable Federal regulations, 36 CFR 60, and 36 CFR 61, and has determined that the plan meets the requirements of those regulations; and

WHEREAS, the National Park Service, on behalf of the Secretary, has reviewed the plan and has determined in accordance with Section 101(d)(2)(D)(i) that the Skull Valley Band of Goshute Indians is fully capable of carrying out the functions specified in the Tribe's plan; now, therefore,

THE NATIONAL PARK SERVICE AND THE SKULL VALLEY BAND OF GOSHUTE INDIANS DO HEREBY AGREE AS FOLLOWS:

1. The Skull Valley Band of Goshute Indians assumes responsibility on tribal lands for the following functions set out in Section 101(b)(3) of the Act:

A. Direct and conduct a comprehensive, Reservation-wide survey and maintain an inventory of historic and culturally significant properties;

B. Identify and nominate eligible properties to the National Register and otherwise administer applications for listing historic properties on the National Register.

C. Develop and implement a comprehensive, Reservation-wide historic preservation plan covering historic, archeological, and traditional cultural properties;

D. Advise and assist, as appropriate, Federal and State agencies and local governments in carrying out their historic preservation responsibilities;

E. Cooperate with the Secretary, the Advisory Council on Historic Preservation, and other Federal agencies, State agencies, local governments, and organizations and individuals to ensure that historic properties are taken into consideration at all levels of planning and development;

F. Provide public information, education and training, and technical assistance in historic preservation;

G. Consult with the appropriate Federal agencies in accordance with Section 106 of the Act on:

i. Federal undertakings that may affect historic and culturally significant properties within the boundaries of the Reservation;

ii. the content and sufficiency of any plans to protect, manage, or to reduce or mitigate harm to such properties;

H. Administer such Federal assistance as may be provided for tribal historic preservation activities pursuant to this agreement.

I. Advise and assist in the evaluation of proposals for rehabilitation projects that may qualify for Federal assistance, such as historic preservation income tax credits.

2. In accordance with the Tribe's plan noted above, the State Historic Preservation Officer (hereafter, SHPO) of Utah, in consultation and cooperation with the Tribe, retains responsibility for the functions in Section 101(b)(3), as follows:

A. Cooperate with local governments in the development of local historic preservation programs and assist local governments in becoming certified pursuant to subsection (c) of the Act.

3. The SHPO, in accordance with Section 101(d)(2)(D)(iii) of the Act, may exercise the historic preservation responsibilities along with the tribal preservation official on land that is neither owned by a tribal member nor held in trust for the tribe by the Secretary, provided that the owner of such property requests the SHPO's participation;

4. In evaluating the significance of and impact on historic and cultural resources, the Tribal Historic Preservation Officer will consult, as needed, with individuals who meet the Secretary's Standards for the discipline or disciplines that correspond to the resource under consideration. In any case where the individual consulted is not a staff member, the Tribal Historic Preservation Officer will retain a record of the consultation.

5. The Skull Valley Band's Advisory Board will serve as the Tribal Historic Preservation Officer's advisory board for purposes of this agreement. The Tribal Historic Preservation Officer will, in accordance with Section 101(d)(4)(C), provide for the appropriate participation in the historic preservation program by the tribe's traditional cultural authorities, representatives of any other tribes whose traditional lands are within the Skull Valley Band's Reservation, and the interested public, in a manner described in the Tribe's plan.

6. The Tribe will carry out its responsibilities for review of Federal undertakings pursuant to Section 106 of the Act in accordance with the regulations (36 CFR Part 800) of the Advisory Council on Historic Preservation. In the event that the Tribe seeks to substitute its own review procedures for those established by the Council, such substitution is subject to a separate negotiation with the Council, pursuant to Section 101(d)(5) of the Act.

7. The Tribal Historic Preservation Officer will provide to the National Park Service a brief annual written report on the Tribe's accomplishments pursuant to this agreement. The report will include, at a minimum, the number of additional properties surveyed and added to the Tribe's inventory, the number of Federal undertakings reviewed pursuant to Section 106 of the Act, and a description of any educational activities and programs carried out. The report shall not be construed as requiring the provision of information that the Tribe deems to be sensitive or culturally inappropriate.

8. As of the date of this agreement, the Skull Valley Band of Goshute Indians' Tribal Historic Preservation Officer is Leon Bear. The Tribe will notify the National Park Service whenever there is a vacancy in the position and whenever a successor is

designated by the Tribe.

9. The National Park Service will, in accordance with Section 101(d)(2)(A) of the Act foster communication, cooperation, and coordination among the Tribe, the State Historic Preservation Officer, and Federal agencies in the administration of the national historic preservation program. All such efforts by NPS will be on an as-needed basis and will be based on consultation with the Tribe to ensure that tribal values are fully respected.

10. The National Park Service, upon execution of this agreement, will notify all Federal Preservation Officers, the Advisory Council on Historic Preservation, the State Historic Preservation Officer of Utah, the National Association of Tribal Historic Preservation Officers, and the National Conference of State Historic Preservation Officers that the Skull Valley Band of Goshute Indians has assumed formal responsibility on tribal lands for all of the functions set out in Item 1 above. In particular, such notice shall make clear that the Tribe has assumed the role of the State Historic Preservation Officer on tribal lands for the purposes of consultation on Federal undertakings pursuant to Section 106 of the National Historic Preservation Act.

11. The National Park Service will consult with the Skull Valley Band of Goshute Indians to determine what technical assistance the Tribe needs and wants in order to enhance its participation in the national historic preservation program. Based on that consultation, NPS will make available to the Skull Valley Band of Goshute Indians such technical assistance as is appropriate and feasible. The Skull Valley Band of Goshute Indians is eligible for grants-in-aid from the Historic Preservation Fund to assist in carrying out the duties it has assumed under this agreement. However, nothing in this Memorandum of Agreement requires the National Park Service to provide financial assistance to the Skull Valley Band of Goshute Indians to carry out the functions it has assumed under this agreement. Only a separate grant agreement, cooperative agreement, or contract obligates NPS to provide funding for tribal activities.

12. The National Park Service, pursuant to Sections 101(d)(2) and 101(b)(2) of the Act, and in direct consultation with the Tribe, will carry out a periodic review of the Tribe's program pursuant to the Act, to ensure that the Tribe is carrying out the program in conformance with the Tribe's plan and with this agreement. To the greatest extent feasible, the review will be a collegial process that involves both NPS and the Tribe in a mutual evaluation and assessment of the program. Generally, such a review will occur every four years.

13. The Skull Valley Band of Goshute Indians may terminate this agreement for any reason by providing the National Park Service sixty days' written notice of such termination. The National Park Service may terminate this agreement upon determining that the Tribe has not carried out its assumed responsibilities in accordance with this agreement, the Act, or any other applicable Federal statute or regulation. Unless circumstances warrant immediate action, NPS will not terminate the agreement without first providing the Tribe a reasonable and appropriate opportunity to correct any deficiencies.

14. This agreement may be amended by the mutual consent of the Skull Valley Band of Goshute Indians and the National Park Service.

15. This agreement shall become effective upon signature by the Director of the National Park Service or her designee, which signature shall not occur until after the Chairman of the Skull Valley Band of Goshute Indians has signed the agreement.

FOR THE NATIONAL PARK SERVICE:

Fran P. Mainella OCT 1 2003

Fran P. Mainella, Director Date

FOR THE SKULL VALLEY BAND OF GOSHUTE INDIANS:

Leon D Bear Ch 8/25/03

Leon Bear, Chairman Date

Lou B. Sk V-Ch 8/25/03

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List of Consulting Parties

MOA SIGNATORY PARTIES

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and Tribal Historic Preservation Officer
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MOA CONCURRING PARTIES

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