

United States Senate

WASHINGTON, DC 20510

May 2, 2006

Ms. Pamela Schuller
Bureau of Land Management
Salt Lake Field Office
2370 South 2300 West
Salt Lake City, UT 84119

Dear Ms. Schuller:

This letter represents our official comments to the Bureau of Land Management (BLM) on the Private Fuel Storage, LLC, (PFS) applications to construct either a rail line to transport spent nuclear fuel (SNF) to Skull Valley, Utah, or an Intermodal Transfer Facility (ITF) to allow the transport of SNF by heavy haul tractor/trailer to the same site.

As you know, recent designation by Congress of the Cedar Mountain Wilderness Area blocked indefinitely the route for the PFS proposed rail line, and made it impossible for the BLM to approve the PFS application for a rail spur.

Therefore, our comments will focus on the application by PFS to construct an intermodal transfer station which would temporarily store spent nuclear fuel within yards of Interstate 80 as it waits to be loaded onto heavy haul tractor/trailers and transported along the Skull Valley Road to the proposed SNF storage site on the Skull Valley Reservation.

The utilization of the proposed intermodal transfer facility for the truck transport of 44,000 tons of SNF in 4,000 casks over Skull Valley Road violates BLM policy against utilizing BLM land for the "storage of hazardous materials." As you well know, Resource Management Plans (RMPs) are the foundation for BLM's management of public lands (43 U.S.C. § 1712). The ITF would sit within the Pony Express RMP, which states, "Public land will not be made available for inappropriate uses such as storage or use of hazardous materials (munitions, fuel, chemicals, etc.) and live artillery firing."

Spent nuclear fuel will be stored at the intermodal parcel prior to truck transport. SNF is a hazardous material under any definition. The PFS Environmental Impact Statement (EIS), in fact, lists the U. S. Department of Transportation (DOT) and Nuclear Regulatory Commission (NRC) hazardous material laws and regulations as being applicable to the PFS project. Under these laws and regulations, SNF clearly is a "hazardous material." The BLM, in fact, was a cooperating agency for the PFS EIS. In short, PFS' application for a BLM permit for the intermodal parcel not only can be, but should be, rejected because the use of the intermodal parcel involves the storage of hazardous material.

The Skull Valley Road, SR 196, is a two-lane, undivided public road. The width of each lane varies from 10 to 12 feet. Significant portions of SR 196 have no shoulder. The PFS heavy-haul trucks will haul only one SNF cask at a time and will travel at no more than 20 mph. The PFS trucks would dwarf conventional semi trucks normally found on our highways. Approximately 150 to 180 feet long, 12 feet wide, and loaded will weigh more than 200 tons, these trucks require no fewer than 19 axles. Please note that SR 196 has average traffic of more than 565 vehicle trips per day, including trips to and from the Dugway Proving Ground.

The EIS for the truck transport alternative is premised on PFS hauling 100 to 200 casks per year. It would likely take 20 years for PFS to haul the planned 4,000 casks to the PFS storage facility and then another 20 years to move the SNF casks back for reshipment to reactor sites for repacking and then, in turn, shipment to Yucca Mountain. The public has an interest in maintaining normal access to the Skull Valley Road, and that access would certainly be harmed were the BLM to approve PFS's ITF application.

Moreover, the majority of the residents of Tooele County live near the Deseret Chemical Depot, which contains the Tooele Chemical Agent Disposal Facility, one of the nation's chemical weapons incinerators. In the case of a mishap at this facility, Skull Valley Road is one of only three emergency evacuation routes for Tooele County's ever-growing population and for the members of the Skull Valley Band. In such an event, oversized trucks carrying spent nuclear fuel on this route would create a serious risk to evacuees. In short, the ITF proposal would not only harm the public's general access to this public road, but it would also harm the public's safety interest by regularly placing these gigantic trucks on a major evacuation route in an already high-risk and highly populated area.

In sum, the use of Skull Valley Road for truck transportation of spent nuclear fuel between the proposed Private Fuel Storage intermodal transfer facility and Skull Valley is an unacceptable risk to the health and safety of Utah citizens, wholly impractical and will literally impede the public use of this state road for at least 40 years.

We now wish to comment on the ITF and its location. PFS plans to construct a siding and short-line track to move rail cars with SNF casks from Rowley Junction to the intermodal transfer facility. The transfer operation will occur in a prefabricated metal building housing a Gantry crane. PFS will run tracks into the building and transfer the SNF casks from rail car to truck for transport to Skull Valley. The PFS operation on the BLM intermodal transfer parcel will not be a flow-through operation, and SNF casks will be stored on the BLM parcel awaiting transfer for truck transport.

The PFS intermodal transfer facility will not normally be staffed. Operations, generally during daytime hours, will require a four-person crew, who will also drive the heavy-haul trucks to and from the Skull Valley Reservation. Currently, there is no plan or commitment for security either for the intermodal transfer facility or the truck transport of SNF casks from the facility to the Skull Valley Reservation. This lack of security presents unacceptable risks to Utah citizens.

The transfer facility also lacks any federal oversight. The Department of Energy (DOE), which handles our nation's nuclear waste, says the PFS plan is outside the scope of our nation's policy for handling spent nuclear fuel. Because it's a private facility, the DOE would not oversee or take responsibility for this waste. Instead, the security and safety measures at the site would be managed by a shell corporation of private companies, and many question if it would have the resources to handle a major crisis.

The placement of nuclear waste by Private Fuel Storage in Skull Valley will have a direct and immediate adverse impact on the national security of the United States. Specifically, the placement of nuclear waste at the proposed site, will affect the ability of our nation's military air services to train and conduct tests, especially long-range weapons evaluations, at the Utah Testing and Training Range (UTTR). In addition, the proposed location presents an unacceptable risk to the largest population concentration in the state of Utah.

Though not well-known outside of the military community, UTTR is a vital national asset. As depicted in the enclosed map, UTTR is huge. The range is larger than Rhode Island with over 12,574 square miles of airspace. It is the largest contiguous overland block of supersonic authorized airspace in the continental United States. That means that almost the entire northwestern portion of Utah is reserved for military training. In addition to its vast size, the UTTR, and the area surrounding it, are devoid of encroachment caused by civilian development. This permits training and testing that cannot occur at any other Air Force facility. The impressiveness of the range's size is only matched by the number of training sorties that are flown. In 2003, 15,970 sorties were flown.

UTTR is unique. It is the Air Force's only cruise missile test range and is one of just two Air Combat Command-approved Joint Direct Attack Munitions (JDAM) ranges. As the BLM is well aware, during the War on Terror, long-range munitions are increasingly becoming the weapon of choice for our air operations. For example, the widely used GBU-31/32 JDAM has a range greater than 15 nautical miles, the AGM-88 High Speed Anti-Radiation Missile can travel greater than 60 miles and the AGM-86C Conventional Air Launched Cruise Missile's (CALCM) range is over 500 miles.¹ The extended range of these systems is just the beginning. Our nation continues to develop even longer range munitions, some that will fly at high supersonic speeds. These munitions will need to be tested and our pilots will need to be trained on how to employ them most effectively.² Therefore, UTTR will play a leading role in ensuring that, during and after the War on Terrorism, our service members receive the best equipment and train in unsurpassed conditions.

¹ Due to the range of the CALCM, these missiles fly "race-course track" flights over the UTTR. That means that the CALCM flies in and around the range several times before impacting on its target.

² Other long-range systems being procured by our military include:

- The Joint Air to Surface Standoff Missile (JASSM) with a range greater than 100 miles;
- The Joint Standoff Weapon (JSOW) with a range of approximately 40 miles; and
- The Small Diameter Bomb (SDB) with a range of 40 nautical miles.

Despite this vital national requirement to maintain and utilize the UTTR, the proposed nuclear storage site will directly impede the ability of our service members' ability to test new systems and train. In fact, the proposed site is *inside* UTTR's Military Operations Area and immediately adjacent to the range's restricted air space. Specifically, many of UTTR's target locations are located fewer than ten miles from the proposed storage site, which can be seen clearly from aircraft using UTTR's southern bombing range. It is all too easy to envision a test or bombing run in which a weapon veers from its intended target and crashes into the proposed storage site. Similar scenarios routinely occur. For example, in 2004 there were four instances in which 20mm rounds fired from F-16's during practice strafing runs struck outside Air Force gunnery ranges.

In one high profile case, 20mm rounds hit a New Jersey school four miles from their intended target.³ Accidents will happen, and even today the smartest of weapons can malfunction and veer off course. For instance, on eight occasions since 1997, the Advanced Cruise Missile has deviated from its intended target and crashed at various locations throughout the UTTR. In addition, three CALCM have crashed since 1995 on the range.⁴ Heightening this concern is the fact that new and experimental long-range systems will be tested at UTTR. Though we have the highest confidence in our nation's scientists and aerospace engineers, we all know that during the initial testing of new missiles and self-guided munitions, errors occur and systems can stray far from their intended target.

Another truth, which many overlook, is that over the past 20 years approximately 70 aircraft have crashed while using the UTTR. In fact, the enclosed map clearly shows that aircraft have crashed not only directly West of the proposed storage site, but East as well. Therefore, one is correct in stating that the proposed storage site has been straddled by airplane crashes. In fact, the most recent crash occurred during the drafting of this letter, and we might add the crash occurred north of the UTTR, even beyond the proposed site for the ITF. Specifically, on March 30th, an F-16 crashed while returning from the UTTR. This crash also reminds us that the site of an aircraft crash can be quite large. In this case, the wreckage was found over a half a mile long site.⁵ Adding to this level of concern is that four aircraft have crashed within 20 miles of the proposed site, a site that is fewer than 40 miles from downtown Salt Lake City. Clearly, the potential is very high for a catastrophic accident in which an aircraft, or part of an aircraft, could crash into the casks releasing radioactive material.

³ Bruce Rolfson, Working On Better Trigger Control; Air Force Hopes F-16 Software Update Reduces Accidental Fire, Air Force Times, January 32, 2005, at p.18. The cause of each of these accidents was when the pilot attempted to activate the laser marking beam from a LITENING II targeting pod. On this version of the F-16, the pilot is required to slightly squeeze the trigger once to activate the laser. If the pilot squeezes to hard, the 20mm cannon will fire.

⁴ U.S. AIR FORCE, UTTR CRUISE MISSILE HISTORY 1990 – FEBRUARY 2005, (2006).

⁵ Jason Bergreen, National Team Forms to Examine F-16 Crash, Salt Lake Tribune, April 3, 2006.

The highest levels of our military establishment have similar concerns. On December 6, 2005, Secretary of the Air Force, Michael Wynne,⁶ wrote to us articulating the Air Force's support for legislation designed to ensure that Skull Valley would not be used for the storage of nuclear waste.⁷ Specifically, Secretary Wynne stated, "as to other encroachment concerns with regard to the specialized commercial activities [the proposed nuclear storage site], the Air Force remains opposed to any restriction resulting from any activity under or near airspace used for military operations at the UTTR."

Therefore, if the development of the proposed site were permitted to proceed, our military services will be faced with a dilemma. The services can ignore the significant risk posed by the proposed site and continue to test and train directly over and near casks containing high-grade nuclear waste casks, that it should be noted, were not designed to withstand air-dropped munitions. Or our military can greatly curtail its test and training at UTTR – training and testing that cannot be performed anywhere else due to the range's size, including authorized supersonic airspace, and lack of encroachment. The Bureau, however, has the ability to ensure that our military does not have to contemplate such a decision by declining the permit.

Similar concerns can be directed toward the PFS proposed ITF, where SNF would be transferred from railcars to trucks for the final 24 mile drive to the planned storage facility. The proposed ITF will be located directly over the preferred access route to the UTTR from Hill Air Force Base.⁸ Hill Air Force Base, with its two fighter wings, is the facility where the majority of aircraft using UTTR originate from. Once again, the enclosed map clearly shows that three aircraft crashes have occurred within 15 miles of the proposed ITF site. It should also be noted that the ITF will be adjacent to the Great Salt Lake. An additional four aircraft have crashed into the lake, presumably while entering or exiting the UTTR

Clearly, the location of the proposed storage site and ITF will directly affect, during a time of war, the national security of the United States by limiting the type of testing and training opportunities at the UTTR. Simply put, how could the military test extended range munitions and train with live ordnance, over or immediately adjacent to a facility storing, above ground, high-level nuclear waste in casks not designed to withstand impact from the air, when the closest population centers are fewer than 20 miles away?

Unfortunately, a military accident is not the only contingency in which radioactive material could be released and contaminate Utah's most populated areas. As the world has witnessed, over the past 11 years – first, with the bombing of the Alfred P. Murrah Building, in Oklahoma City; to the destruction of Khobar Towers, in Saudi

⁶ Letter from the Honorable Michael Wynne, Secretary of the Air Force, to the Honorable Orrin Hatch, United States Senator (December 6, 2005).

⁷ H.R. 1815, 108th Cong. (2005).

⁸ Geographic boundaries and legislation included in the National Defense Authorization Act for Fiscal Year 2006 limit where an ITF can be built to a site 1.8 miles west of the intersection of I-80 and State Route 196, also known as Skull Valley Road.

Arabia; and, of course, the World Trade Center in New York – our nation’s enemies have devised new and ingenious methods of attacking our country. The Department of Defense classifies these types of actions as asymmetric threats. The National Defense University defines asymmetric threats as: “threats or techniques [that] are a version of not “fighting fair,” which can include the use of surprise in all its operational and strategic dimensions and the use of weapons in ways unplanned by the United States.”⁹ Therefore, if we are to truly defend the homeland we must think the unthinkable in order to mitigate the chances of success of a surprise attack.

It has been publicly and widely documented that after the fall of Kabul, U.S. intelligence services were able to determine that al-Qaeda was actively seeking to procure or build weapons of mass destruction.¹⁰ In order to prevent this, our nation must explore the possible venues by which a terrorist could come into possession or use such a weapon. In the nuclear realm, due to the overwhelming problems that must be confronted from the building or theft of a nuclear device, a terrorist could adopt an asymmetric approach to using such a weapon of mass destruction. A recent Government Accountability Office Report offered one possible scenario. During an investigation into our border security, undercover congressional investigators were able to smuggle radioactive materials, enough to build a radiological device, into the United States.¹¹ Another such possibility includes causing an explosion designed to release the high-level radioactive material that will be stored at the PFS site and transferred through the ITF.

As one can clearly see from PFS’s Environmental Report map, the ITF enclosure, the site where the nuclear waste will be transferred from rail line to trucks, is approximately 600 feet from the I-80 frontage road, a road that is fully accessible to any motorist.¹² In addition, a computer rendering of the design, provided by PFS, dramatically shows the proximity of the ITF to this often-used thoroughfare.¹³ It is easy to recall similar situations in which terrorists filled trucks with high-explosives and detonated those devices near government installations.

In the case of the Khobar Towers, a truck bomb was detonated approximately 80 feet from an eight-story concrete building. That explosion resulted in the loss of the entire northern portion of the building and, far more significantly, killed 19 U.S. service members while injuring hundreds of American and Saudi citizens.¹⁴ A similar result was caused by the attack on the Alfred P. Murrah Building, in Oklahoma City. Indeed, the threat of just such a terrorist attack prompted the United States Secret Service to close, to vehicular traffic, the portion of Constitution Avenue that is immediate adjacent to the

⁹ <http://www.ndu.edu/inss/Strategic%20Assessments/sa98/sa98ch11.html>. (March 24, 2006).

¹⁰ Anthony Loyd, Scientists Confirm bin Laden Weapons Tests, The Times (London), December 29, 2001.

¹¹ Eric Lipton, Testers Slip Radioactive Materials Over Borders, N.Y. Times, March 28, 2006.

¹² Intermodal Transfer Point, Private Fuel Storage, Environmental Report, Figure 3.2-1.

¹³ Intermodal Transfer Point, Private Fuel Storage, Environmental Report, Figure 7.

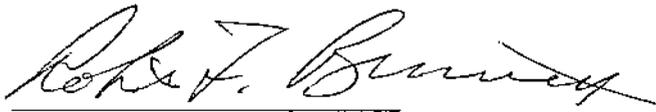
¹⁴ THE KHOBAR REPORT, U.S. AIR FORCE, (1997). <http://www.au.af.mil/au/awc/awcgate/khobar/part2f.htm>.

White House. The White House is approximately 200 feet away from Constitution Avenue.¹⁵

In summary, PFS's plan for an ITF along Interstate 80 is not in the public interest. The storage of SNF within the Pony Express Management Area is clearly and directly banned by the Pony Express RMP. The ITF and the transport of SNF would also cause harm to the public's access to this well-used road. Furthermore, the evacuation and safety plans currently in place in this high risk and populated area, would be dramatically disrupted by the ITF. The risk of stray ordnance and F-16 crashes add an unacceptable risk to the plan, as well. Finally, the ITF is not in our public's security interest, as it threatens the viability of the UTTR, one of our nation's unique security resources.

We appreciate the opportunity given us and to all interested citizens to comment on this very important matter. We hope you will carefully consider our comments. Thank you.

Sincerely,



Robert F. Bennett
United States Senator



Orrin G. Hatch
United States Senator

Enclosure

¹⁵ Interview, United States Secret Service (March 24, 2006).