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IS/SPC
January 28, 2000

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

'00 FEB -1 P12:22

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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|----------------------------|---|------------------------|
| In the Matter of |) | |
| |) | |
| PRIVATE FUEL STORAGE, LLC |) | Docket No. 72-22-ISFSI |
| |) | |
| (Independent Spent |) | |
| Fuel Storage Installation) |) | |

NRC STAFF'S RESPONSE TO STATE OF UTAH'S REQUEST
FOR PUBLIC DISCLOSURE OF PROPRIETARY INFORMATION

On January 10, 2000, the State of Utah ("State") filed the "State of Utah's Reply to the Staff's Response to the Applicant's Motion for Partial Summary Disposition of Utah Contention E /Confederated Tribes Contention F" ("Reply"), in which it, *inter alia*, requested that certain information that has been withheld from public disclosure in this proceeding be disclosed to the public (*Id.* at 19-20). In particular, the State requests that the following information be released for public disclosure:

[T]he State strongly objects to any effort to keep a proposed or final license condition, in whole or in part (such as the [number redacted] MTU initial capacity volume), as proprietary. . . . The State urges the Board to release all information claimed to be proprietary in this summary disposition proceeding for public review and scrutiny.

Id. at 20; emphasis added. By Order of January 20, 2000,¹ the Licensing Board provided an opportunity for other parties to respond to the State's request.

¹ "Memorandum and Order (Schedule for Responsive Filings Related to Dispositive Motion on Contention Utah E/Confederated Tribes F)," dated January 20, 2000, at 1.

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In accordance with the Licensing Board's Order of January 20, 2000, the NRC Staff ("Staff") herein responds to the State's request for public disclosure of proprietary information. First, the Staff notes that the State is only partially correct in its assumption that the Staff's use of brackets in its proposed license condition indicates that "the Staff must be in agreement with PFS about withholding this license condition from the public" (Reply at 19). In fact, the Staff's redaction of the bracketed information reflects the Staff's recognition that the information was submitted as proprietary and, at least preliminarily, appears to constitute proprietary information. The Staff expresses no view, however, as to whether the bracketed number should continue to be withheld from disclosure as proprietary information, in that the State's need for this information to be disclosed (beyond its disclosure to the State for use in this litigation), and the Applicant's need to protect this information from public disclosure, are matters which those parties are best positioned to explain.

Second, the Staff notes that the State has made no showing whatsoever that "all information claimed to be proprietary in this summary disposition proceeding" should be released to the public, nor has the State even attempted to list or identify the information that it claims should be disclosed at this time; accordingly, the unfettered disclosure of all such information should not be ordered at this time.

Respectfully submitted,



Sherwin E. Turk
Counsel for NRC Staff

Dated at Rockville, Maryland
this 28th day of January 2000

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NUCLEAR REGULATORY COMMISSION

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PRIVATE FUEL STORAGE LLC)
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Fuel Storage Installation))

Docket No. 72-22-ISFSI

OFFICE OF THE SECRETARY
PUBLIC AFFAIRS
JUDICIAL STAFF

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S RESPONSE TO STATE OF UTAH'S REQUEST FOR PUBLIC DISCLOSURE OF PROPRIETARY INFORMATION" in the above captioned proceeding have been served on the following through deposit in the Nuclear Regulatory Commission's internal mail system, or by deposit in the Nuclear Regulatory Commission's internal mail system, with copies by electronic mail, as indicated by an asterisk, or by deposit in the United States mail, first class, as indicated by double asterisk, with copies by electronic mail as indicated, this 28th day of January, 2000.

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