

EXHIBIT 1
to State's Motion for Clarification
and Reconsideration of LBP-98-7

Excerpts from LBP-98-7

Excerpts from LBP-98-7: State's Contentions and Bases Rejected by Licensing Board

G - Quality Assurance: basis 2 "regarding inadequate QA descriptions for PFS quality control over spent fuel canister packaging operations and materials and handling at originating reactor sites, shipping cask materials and construction, and welding on shipping casks and spent fuel canisters is inadmissible as impermissibly challenging the agency's regulatory program, standards, and/or rulemaking-associated generic determinations. See section II.B.1.a.ii." LBP-98-7 at 64.

basis 3 "concerning inconsistency between the QA program description and the SAR is inadmissible as lacking materiality. See section II.B.1.a.i., iv." LBP-98-7 at 64.

I - Lack of a Procedure for Verifying the Presence of Helium in Canisters: "Inadmissible in that the contention and its supporting bases impermissibly challenge agency regulations or rulemaking-associated generic determinations, including those concerning the need for canister inspection and testing; and/or lack adequate factual information or expert opinion support. See section II.B.1.a.i., ii., v." LBP-98-7 at 66.

J - Inspection and Maintenance of Safety Components, Including Canisters and Cladding: "Inadmissible in that the contention and its supporting bases impermissibly challenge agency regulations or rulemaking-associated generic determinations, including those concerning canister inspection and repair; and/or lack adequate factual information or expert opinion support. See section II.B.1.a.i., ii., v." LBP-98-7 at 66-67.

P - Inadequate Control of Occupational and Public Exposure to Radiation: "Inadmissible as to all paragraphs except subparagraph b. of paragraph seven in that these portions of the contention and their supporting bases fail to establish with specificity any genuine dispute; impermissibly challenge the Commission's regulations or rulemaking-associated generic determinations, including the applicable ALARA provisions; lack materiality; lack adequate factual or expert opinion support; and/or fail properly to challenge the PFS application. See section II.B.1.a.i., ii., iv., v., vi." LBP-98-7 at 74.

Q - Adequacy of ISFSI Design to Prevent Accidents: "Inadmissible in that this contention and its supporting bases fail to establish with specificity any genuine material dispute; impermissibly challenge the Commission's regulations or rulemaking-associated generic determinations; lack materiality; lack adequate factual or expert opinion support; and/or fail properly to challenge the PFS

application. See section II.B.1.a.i., ii., iii., v., vi.¹⁷" LBP-98-7 at 75.

R - Emergency Plan: ¶ 1 (non-admitted portions); ¶ 2; ¶¶3 and 4 sub. a; and ¶ 5.

"Inadmissible. . . in that these portions of the contention and their supporting bases fail to establish with specificity any genuine dispute; impermissibly challenge the Commission's regulations or generic rulemaking-associated determinations, including Commission determinations relating to the need for offsite emergency response plans for ISFSIs; lack materiality; lack adequate factual or expert opinion support; and/or fail properly to challenge the PFS application. See section II.B.1.a.i., ii., iv., v., vi." LBP-98-7 at 77.

S - Decommissioning: bases 3, 6, 7, 8, and 9. "Inadmissible as to the matters specified in bases three, six, seven, eight, and nine provided in support of this contention, which fail to establish with specificity any genuine dispute; impermissibly challenge the Commission's regulations or rulemaking-associated generic determinations, including 10 C.F.R. § 51.23; lack materiality; and/or lack adequate factual or expert opinion support. See section II.B.1.a.i., ii., iv., v." LBP-98-7 at 79.

T - Inadequate Assessment of Required Permits and Other Entitlements: ¶ 1. "fail to establish with specificity any genuine dispute and impermissibly challenge the Commission's regulatory processes, regulations or rulemaking-associated generic determinations, including those relating to site ownership.¹⁸ See section II.B.1.a.i., ii." LBP-98-7 at 82.

U - Impacts of Onsite Storage not Considered: basis 2, 3, and 4 "fail to establish with specificity any genuine dispute; impermissibly challenging the Commission's regulations or rulemaking-associated generic determinations, including those involving canister inspection and repair and transportation sabotage; lack adequate factual or expert opinion support; and/or fail properly to challenge the PFS application. See section II.B.1.a.i., ii., v., vi." LBP-98-7 at 83.

¹⁷ Some of the bases for this contention rely upon the possibility of accidents at the Rowley Junction ITP, which we have found to be a permissible subject for other State contentions. In this instance, however, the basis for the contention concerns purported accidents involving storage casks rather than shipping casks, the latter being the casks that would be handled at the ITP.

¹⁸ Regarding this contention, the Board also notes that an allegation concerning compliance with the requirements of 10 C.F.R. Part 75 was withdrawn. See Tr. at 486-87.

V - Inadequate Consideration of Transportation-Related Radiological Environmental

Impacts: ¶ 1, ¶ 2(parts), ¶¶ 3 and 4 "fail to establish with specificity any genuine dispute; impermissibly challenge the applicable Commission's regulations or rulemaking-associated generic determinations, including 10 C.F.R. §§ 51.52, 72.108, and "Environmental Survey of Transportation of Radioactive Materials to and from Nuclear Power Plants," WASH-1238 (Dec. 1972), as supplemented, NUREG-75/038 (Supp. 1 Apr. 1975); lack adequate factual or expert opinion support; and/or fail properly to challenge the PFS application. See section II.B.1.a.i., ii., v., vi." LBP-98-7 at 86.

W - Other Impacts not Considered: ¶¶ 1 and 2; ¶ 3 relating to facility, ¶¶ 4, 5, and 6 "fail to establish with specificity any genuine dispute; lack adequate factual or expert opinion support; and/or fail properly to challenge the PFS application. See section II.B.1.a.i., v., vi." LBP-98-7 at 88.

X - Need for the Facility: "Inadmissible in that the contention and its supporting bases fail to establish with specificity any genuine dispute; impermissibly challenge the Commission's regulations or rulemaking-associated generic determinations; and/or lack adequate factual and expert opinion support. See section II.B.1.a.i., ii., v." LBP-98-7 at 88.

Y - Connected Actions: "Inadmissible in that this contention and its supporting basis fail to establish with specificity any genuine dispute; impermissibly challenges the Commission's regulations or rulemaking-associated generic determinations, including 10 C.F.R. §§ 51.23, 51.61; and/or lacks adequate factual or expert opinion support. See section II.B.1.a.i., ii., v." LBP-98-7 at 89.

CC - One-Sided Cost Benefit Analysis: "Inadmissible as the contention and its supporting bases fail to establish with specificity any genuine dispute; lack adequate factual or expert opinion support; and/or fail properly to challenge the PFS application. See section II.B.1.a.i., v., vi." LBP-98-7 at 92.

DD - Ecology and Species: ¶¶ 1, 2, 3; ¶ 4 sub. a, b, e, and f; ¶¶ 5 and 6. "fail to establish with specificity any genuine dispute; lack adequate factual or expert opinion support; and/or fail properly to challenge the PFS application. See section II.B.1.a.i., v., vi." LBP-98-7 at 94.

GG - TranStor casks - stability and earthquakes; ¶¶ 3 and 4: "fail to establish with specificity any genuine dispute; lack adequate factual and expert opinion support; and/or fail properly to challenge the PFS application. See section II.B.1.a.i., v., vi." LBP-98-7 at 104.