

July 9, 1998

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

NRC STAFF'S RESPONSE TO THE
STATE OF UTAH'S COMMENTS ON THE
SCHEDULING ORDER OF JUNE 29, 1998

On July 7, 1998, the State of Utah filed its comments on the Licensing Board's "Memorandum and Order (General Schedule for Proceeding and Associated Guidance)," dated June 29, 1998 ("Order").¹ In accordance with the Licensing Board's subsequent Order of July 8, 1998, the NRC Staff ("Staff") herewith provides its response to the State's comments.²

1. The Staff agrees with the State's observation that two months should be allowed for the conclusion of discovery against the Staff, following its statement of a position on safety contentions or publication of the Draft Environmental Impact Statement (EIS) (Utah Comments at 1, ¶ 1). The Staff believes this is clear in the Licensing Board's Scheduling Order and that no clarification is required in this regard. With respect to the discovery cut-off against the Staff

¹ See "State of Utah's Comments on the Board's June 29, 1998, Scheduling Order" ("Utah Comments"), dated July 7, 1998.

² On July 7, 1998, the Applicant filed its comments concerning the Licensing Board's Scheduling Order. See "Applicant's Comments on General Schedule for Proceeding and Associated Guidance" ("PFS Comments"), dated July 7, 1998. As noted therein, the Staff is in general agreement with the positions expressed by the Applicant in that document.

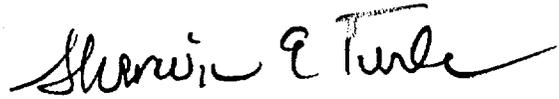
following publication of the Final EIS, the Staff does not believe that a full two months of additional discovery is required, inasmuch as discovery on environmental contentions will have already occurred following publication of the DEIS, and additional discovery on those contentions would only be appropriate to the extent that the Final EIS differs from the Draft EIS. Accordingly, the Staff believes that no modification of the Licensing Board's Scheduling Order is required in this regard.

2. The State has expressed concern that discovery may need to be reopened during the period between (a) the general close of discovery and (b) the close of discovery against the Staff and the deadline for filing summary disposition motions (Utah Comments at 1-2, ¶ 2). The Staff believes this concern is premature, and that a party may always file a motion to reopen discovery, upon a showing of good cause. Further, the Commission's Rules of Practice contain an appropriate procedure for the supplementation of discovery responses, as set forth in 10 C.F.R. § 2.740(e). Accordingly, the Staff believes that no modification of the Licensing Board's Scheduling Order is required in this regard.

3. The State suggests that parties should be permitted to file motions for extensions of time, upon a showing of good cause (Utah Comments at 2, ¶ 3). While the Staff does not oppose this suggestion in general, the Staff believes it is premature to raise this concern at this time. Moreover, the Licensing Board's Scheduling Order explicitly recognizes that schedular adjustments may be necessary in the future, "to meet whatever exigencies may arise in the course of this litigation" (Order at 4-5). Accordingly, the Staff believes that no modification of the Licensing Board's Scheduling Order is required in this regard.

4. The Staff shares the State's concern that the 7-day period of time allowed for filing answers to interrogatories is too short, and should be changed to permit the filing of such answers within 14 days (Utah Comments at 3, ¶ 4). The Staff notes that the Applicant expressed the same view in its comments, with agreement by the Staff (PFS Comments at 1-2).

Respectfully submitted,



Sherwin E. Turk
Counsel for NRC Staff

Dated at Rockville, Maryland
this 9th day of July 1998

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S RESPONSE TO THE STATE OF UTAH'S COMMENTS ON THE SCHEDULING ORDER OF JUNE 29, 1998" 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 United States mail, first class, as indicated by an asterisk, with copies by electronic mail as indicated, this 9th day of July, 1998:

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