

May 14, 1999

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 |
| |) | |
| (Private Fuel Storage Facility) |) | ASLBP No. 97-732-02-ISFSI |

**APPLICANT'S REQUEST FOR EXTENSION OF TIME TO FILE
A 20-PAGE SUMMARY DISPOSITION MOTION FOR UTAH K**

Private Fuel Storage L.L.C. ("Applicant" or "PFS") requests an extension of time in which to file a 20-page brief in support of a partial motion for summary disposition with respect to Utah Contention K. On May 6, 1999, Applicant requested an extension to May 18, 1999 in which to file a motion for summary disposition with respect to Utah K of 20 pages in length, which the Atomic Safety and Licensing Board ("Board") granted in its Order (Granting Time Extension Motion) of May 10, 1999. The basis for Applicant's initial request for an extension of time to May 18 was to allow sufficient time to review the transcript of depositions (scheduled for May 10-12) of knowledgeable State personnel for potential inclusion in a summary disposition motion.

Unfortunately, however, General Matthews, Military Advisor to the Governor of Utah, and identified by the State as one of its witnesses with respect to "activities relating to Dugway, Utah Test and Training Range, and Hill Air Force Base, as well as other

military and aviation activities,"¹ was unavailable due to being bedridden with pneumonia. See Exhibit 1 attached hereto (Letter from State advising Applicant of the unavailability of General Matthews). The State and the Applicant have currently rescheduled General Matthew's deposition for sometime on May 26 or May 27 of the last week in May (obviously subject to his full recovery) when counsel for Applicant will be in Utah for other depositions. Id. (Next week Applicant and the State will be doing depositions in Washington D.C., including experts on Utah K.) As a result, Applicant will not have available the deposition of General Matthews until the end of that week, and therefore requests an extension of time to June 4, 1999 for filing a motion for summary disposition of 20 pages in length with respect to Utah K.²

Applicant has conferred with counsel for the State, who does not oppose this Motion. Applicant's counsel has attempted, but has yet to reach, counsel for the NRC Staff. Applicant will file a short supplement to this request stating the Staff's position upon talking to Staff counsel.

Wherefore, the Applicant requests that it be allowed to file a motion for summary disposition of 20 pages in length with respect to Utah K through June 4, 1999.

¹ See "State of Utah's Amended Responses to Applicant's First Set of Formal Discovery Requests" dated April 29, 1999, Responses to General Interrogatory Nos. 3 and 5.

² Counsel for Applicant recognizes that requests for extension of time are to be filed three days prior to the due date, but did not return from the depositions in Utah until late yesterday afternoon, and with other deadlines, did not have an opportunity to confer and file this motion earlier.

Respectfully submitted,



Jay E. Silberg

Ernest L. Blake, Jr.

Paul A. Gaukler

SHAW, PITTMAN, POTTS & TROWBRIDGE

2300 N Street, N.W.

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(202) 663-8000

Dated: May 14, 1999

Counsel for Private Fuel Storage L.L.C.

Exhibit 1



DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF THE EXECUTIVE DIRECTOR

Michael O. Leavitt
Governor

Dianne R. Nielson, Ph.D.
Executive Director

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May 11, 1999

Hand Delivered and Sent via Email

Paul A. Gaukler, Esq.
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2300 N Street, N. W.
Washington, DC 20037-8007

Re: Deposition of John Matthews

Dear Mr. Gaukler:

This is to notify you that John Matthews, Brigadier General (retired), will not be available for the deposition originally scheduled on Wednesday, May 12, 1999 at 1:00 p.m. Unfortunately, General Matthews is still bedridden with pneumonia and unable to attend.

Assuming General Matthews has recovered, he will be available on May 26 or 27, 1999 when plan return for additional depositions. I apologize for the inconvenience, however, General Matthew's illness is out of anyone's control.

Sincerely,

Connie S. Nakahara

c: Ernest L. Blake, Jr., Esq.
Denise Chancellor, Esq.
Richard E. Condit, Esq.
John Paul Kennedy, Sr., Esq.
Danny Quintana, Esq.
Sherwin E. Turk, Esq.
Joro Walker, Esq.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Commission

In the Matter of)
)
PRIVATE FUEL STORAGE L.L.C.) Docket No. 72-22
)
(Private Fuel Storage Facility))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Applicant's Request for Extension of Time to File a 20-Page Summary Disposition Motion for Utah K were served on the persons listed below (unless otherwise noted) by e-mail with conforming copies by U.S. mail, first class, postage prepaid, this 14th day of May 1999.

G. Paul Bollwerk III, Esq., Chairman
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* Susan F. Shankman
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Directorate, Spent Fuel Project Office
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Office of the Secretary
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Attention: Rulemakings and Adjudications
Staff
e-mail: hearingdocket@nrc.gov
(Original and two copies)

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* By U.S. mail only

* Adjudicatory File
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
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