

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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In the Matter of:	)	Docket No. 72-22-ISFSI
PRIVATE FUEL STORAGE, LLC	)	ASLBP No. 97-732-02-ISFSI
(Independent Spent Fuel	)	
Storage Installation)	)	March 24, 1999

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MOTION FOR LIMITED DISCOVERY  
ON GROUP II AND GROUP III CONTENTIONS

Further to a telephone conference (regarding the status of discovery) convened by the Atomic Safety and Licensing Board (ASLB) on March 23, 1999, the State of Utah submits a motion to add a limited discovery window for Group II and Group III contentions to the Private Fuel Storage Proceeding General Schedule, as revised on February 17, 1999. *See* ASLB Order (Revised General Schedule), App A, issued February 17, 1999.

As the schedule currently stands, formal discovery ends against all parties, except the NRC Staff, on May 28, 1999. Pre-filed testimony on Group I contentions is due four months after the end of discovery, *i.e.*, on October 1, 1999. Counsel for the State and the Applicant agree that it would be beneficial to each party to conduct depositions and some written discovery (*i.e.*, interrogatories, admissions and document requests) on Group II and Group III

contentions at a time closer to the proposed hearings for Group II and Group III contentions.<sup>1</sup>

Using the current schedule as a guide, the State requests the Board approve a limited discovery window for Group II contentions from January 1, 2000 to February 29, 2000. Under this schedule the lead parties would complete limited discovery against each other four months prior to the date pre-filed testimony is due. Neither the State nor PFS expects the hearing scheduled for Group I contentions to take from November 1 to December 31, 1999. Thus, some time should be freed up for limited discovery on Group II contentions.

The request for a specific discovery window on Group III contentions is more difficult to pin point because of NRC's newly announced activities relating to the Environmental Impact Statement (EIS). During the March 23

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<sup>1</sup> The Board has allowed the lead party supporting a contention to serve on the lead party challenging the contention ten written interrogatories per contention. The challenging party has the same interrogatory allocation against the supporting party. Private Fuel Storage, L.L.C., LBP-98-7, 47 NRC 142, 245 (1998). The State requests that the ten interrogatories per contention be used either during the initial formal discovery period or during the limited discovery window. The Applicant requests that a party be allowed to reserve no more than five of the ten interrogatories allowed per contention for use during the discovery window. The State and the Applicant are lead parties on all contentions, with the exception of OGD Contention O (Environmental Justice) and SUWA Contention B (Low rail spur alignment). *Id.* at 243; Order, November 27, 1998; LBP-99-3, February 3, 1999.

conference call, counsel for NRC informed the Board of the following: (a) NRC will be conducting additional scoping meetings on the EIS in April or May, 1999; (b) issuance of the draft EIS will be delayed by approximately four months; (c) issuance of the final EIS will be delayed (by less than four months); (d) at some future date NRC will issue the Applicant a second round of environmental Requests for Additional Information; and (e) counsel for NRC will send a letter to the Board shortly with specific information about the foregoing activities.

In light of the additional activities associated with the EIS, rather than setting specific dates for lead party limited discovery, the State requests a two month discovery window for Group III contentions, using a time frame parallel to that for Group I and Group II contentions.<sup>2</sup>

The State e-mailed a draft of this motion to counsel all parties and requested comments on the motion. The Staff does not oppose the motion. The Applicant does not oppose the motion with the understanding that the State will not use the juxtaposition or overlapping of the proposed limited discovery windows for Group II and Group III contentions with other

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<sup>2</sup> For example, based on the current schedule, the discovery window for Group III contentions would have been September 1 to November 1, 2000 if NRC had not proposed additional procedures relating to the EIS.

scheduled activities, as a basis in and of itself, for requesting delays to this proceeding. The State has received no other comments on this motion.

DATED this 24th day of March, 1999.

Respectfully submitted,



Denise Chancellor, Assistant Attorney General  
Fred G Nelson, Assistant Attorney General  
Diane Curran, Special Assistant Attorney General  
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PRIVATE FUEL STORAGE, LLC	)	ASLBP No. 97-732-02-ISFSI
(Independent Spent Fuel	)	
Storage Installation)	)	March 19, 1999

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NOTICE OF APPEARANCE

Notice is hereby given that the undersigned attorney enters an appearance in the above-captioned matter. Pursuant to Utah Code Ann. § 67-5-1(1) and (2), the Attorney General is the legal advisor to the State of Utah, petitioner. In accordance with 10 C.F.R. § 2.713(b), the following information is provided:

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Admissions: United States District Court for the District of Utah  
Utah State Courts

Name of Party: State of Utah

DATED at Salt Lake City, Utah this 19th day of March, 1999.

Respectfully submitted,

JAN GRAHAM  
Attorney General

*Daniel G. Moquin*

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Daniel G. Moquin  
Assistant Attorney General

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(Independent Spent Fuel	)	
Storage Installation)	)	March 24, 1999

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**NOTICE OF CHANGE OF ADDRESS**

Undersigned counsel hereby gives notice that as of March 29, 1999, the mailing and e-mail address for State's counsel, Diane Curran, will change to:

Diane Curran  
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The telephone number (202/328-3500) remains the same, as does the fax number (202/328-6918).

DATED this 24th day of March, 1999.

Respectfully submitted,



Denise Chancellor, Assistant Attorney General  
Fred G Nelson, Assistant Attorney General  
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) Docket No. 72-22-ISFSI

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(Independent Spent Fuel )  
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) ASLBP No. 97-732-02-ISFSI

) March 24, 1999

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CERTIFICATE OF SERVICE

I hereby certify that copies of (1) MOTION FOR LIMITED DISCOVERY ON GROUP II AND GROUP III CONTENTIONS; (2) NOTICE OF CHANGE OF ADDRESS (for Diane Curren); and (3) NOTICE OF APPEARANCE (Daniel G. Moquin) were served on the persons listed below by electronic mail (unless otherwise noted) with conforming copies by United States mail first class, this 24<sup>th</sup> day of March, 1999:

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