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September 18, 2000

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U.S. Nuclear Regulatory Commission
Office of General Counsel
Mail Stop-0-15 B18
Washington, DC 20555

via email (set@nrc.gov) and First Class Mail

re: Staff's Response to State of Utah's Seventh Set
of Discovery to the Staff, Contention Z
Private Fuel Storage ISFSI, Docket No. 72-22

Dear Mr. Turk:

This letter relates to the Staff's September 13, 2000 response to discovery on Contention Utah Z, follows our telephone conversation today, and describes the inadequacies in the Staff's responses to State's 7th set of discovery.

While the State is concerned with the Staff's lack of response in general, the State will only pursue a Motion to Compel on the below described requests. In general, where the State has specifically cited the DEIS wherein the Staff has made certain representations, the State considers that it is entitled to a discovery response.

Requests for Admission:

- No. 1 The State is unaware of which calculations the Staff considers support the ERI report. Thus, the State cannot determine what portion of the supporting calculations are proprietary. You stated on the telephone that the Staff may be able to respond to this admission by admitting in part and denying in part.
- No. 7 This request refers to accumulation of fuel in at-reactor facilities. You stated that the response would differ based on the reactor site. If this is the case, you should be able to admit in part and deny in part.

Document Requests

- No. 4 The State is concerned that the Staff's offer to produce documents related to the "no action" alternative will be too narrow in scope given the Staff's view of the "no action" contention. Please give me some idea of what documents you intend to produce that relate to the need for SNF storage at nuclear reactor sites.
- Nos. 5, 6, 7, 13, 15 On the phone you stated that your objection to these documents requests is that they relate to economic costs and Contention Z does not address that issue. I disagree. At the heart of Contention Z is the following statement: "NEPA requires that the no action alternative be included in the analysis to serve as a baseline and basis of comparison with the proposed action and other alternatives." See Contention Z at 169. Furthermore, Contention Z complains that the Applicant's ER focuses solely on the perceived disadvantages of the no build alternative. Id. The point of the State's Document Requests Nos. 5 through 7, 14 and 15 is to find out what the Staff considers to be the baseline for the no action alternative, *i.e.* the cost of storing SNF at nuclear reactor sites or at an on-site ISFSI (Document Requests No. 5 & 6); the cost of licensing an on-site ISFSI (Document Request No. 7); the savings to utilities from early decommissioning (Document Request No. 13); and economic alternative to at-reactor storage (Document Request No. 15). These document requests are necessary to ascertain the Staff's basis for comparison of the no action alternative to other alternatives.
- Nos. 10, 11, 14, 16 Somewhat the same rationale applies to these document requests as to those stated in the preceding paragraph and requires a response. In addition, Contention Z challenges that the Applicant has failed to "provide a balanced comparison of environmental consequences among alternatives." Contention Z at 169. Clearly, the Staff's suggestion about fossil fuel fired power plant emissions (Document Request No. 10) fits into this balance as does reactors that could decommission sooner if the PFS facility is licensed (Document Request No. 11); early land use (Document Request No. 14); and the physical limitation to prevent building or expanding an at-reactor ISFSI (Document Request No. 16).

Sherwin Turk, Esq.,
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The deadline for filing a Motion to Compel is Wednesday, September 20. To the extent we can agree on a discovery response, I will delete that discovery request from the motion. I will be in all day tomorrow and Wednesday if you want to talk about the above.

Sincerely,

A handwritten signature in black ink, appearing to read "Denise", with a large, sweeping flourish that loops back over the word.

Denise Chancellor
Assistant Attorney General