

February 20, 2001

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 APPLICANT'S MOTION TO STRIKE PORTIONS  
OF STATE OF UTAH'S RESPONSE TO APPLICANT'S MOTION FOR SUMMARY  
DISPOSITION ON UTAH CONTENTION K/ CONFEDERATED TRIBES CONTENTION B

Pursuant to the Atomic Safety and Licensing Board's Order of February 12, 2001, ("Order (Schedule for Responses to Motions to Strike)") and 10 C.F.R. § 2.730, the staff of the Nuclear Regulatory Commission (Staff) hereby responds to the "Applicant's Motion to Strike Portions of State of Utah's Response to Applicant's Motion For Summary Disposition on Utah Contention K/ Confederated Tribes Contention B" (Motion), filed on February 9, 2001. For the reasons described by the Applicant, the Staff supports the Applicant's Motion.<sup>1</sup>

Respectfully submitted,

*Catherine L. Marco*

Catherine L. Marco  
Counsel for NRC Staff

Dated at Rockville, Maryland  
this 20<sup>th</sup> day of February 2001

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<sup>1</sup> The Staff further notes with respect to the Applicant's argument pertaining to the relevancy of the State's discussion regarding radiation dose consequences of a beyond-design-basis accident at the Applicant's facility (see Motion at 6-9), that the discussion is also irrelevant because it is outside of the scope of the contention. Utah Contention K challenges the accident design envelope of the facility -- *i.e.*, whether PFS adequately considered which events are sufficiently credible as to be required to be within the "design basis" of the facility; issues pertaining to the consequences of an accident are beyond the proper scope of this contention as written. See "State of Utah's Contentions . . .," dated November 23, 1997, at 72-79.

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CERTIFICATE OF SERVICE

I hereby certify that copies of the "NRC STAFF'S RESPONSE TO APPLICANT'S MOTION TO STRIKE PORTIONS OF STATE OF UTAH'S RESPONSE TO APPLICANT'S MOTION FOR SUMMARY DISPOSITION ON UTAH CONTENTION K/ CONFEDERATED TRIBES CONTENTION B" 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 20th day of February, 2001.

G. Paul Bollwerk, III, Chairman\*  
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