

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 UNOPPOSED MOTION TO MODIFY
THE SCHEDULE FOR FILING RESPONSES
TO APPLICANT'S MOTION FOR SUMMARY
DISPOSITION OF CONTENTION UTAH L, PART B

Pursuant to 10 C.F.R. § 2.730, the NRC Staff ("Staff") hereby requests a modification of the schedule for filing responses to the "Applicant's Motion for Summary Disposition of Part B of Utah Contention L" ("Summary Disposition Motion"), filed on November 9, 2001. In support of this request, the Staff states as follows:

1. Private Fuel Storage, L.L.C. ("PFS" or "Applicant") filed its Summary Disposition Motion on November 9, 2001, in accordance with the Licensing Board's "Order (General Schedule Revisions)" dated September 20, 2001. Pursuant to that Order, responses to the Applicant's motion are due to be filed by the Staff and the State of Utah ("State") on November 29, 2001, and the State is to file any permitted reply to the Staff's response on December 10, 2001.

2. Contention Utah L, Part B, as admitted for litigation in this proceeding,¹ raises various issues related to the Applicant's request for an exemption from certain seismic

¹ See *Private Fuel Storage, L.L.C.* (Independent Spent Fuel Storage Installation), CLI-01-12, 53 NRC 459 (2001); *Id.*, "Memorandum and Order (Requesting Joint Scheduling Report and Delineating Contention Utah L)," dated June 15, 2001 (unpublished). See also, *Private Fuel Storage, L.L.C.* (Independent Spent Fuel Storage Installation), LBP-01-03, 53 NRC 84, 101 (2001).

requirements in 10 C.F.R. Part 72. Discovery on this contention was concluded on November 16, 2001 (subject to the Board's ruling on pending motions to compel).

3. The Staff is currently engaged in preparing its response to the Applicant's Summary Disposition Motion. In addition, the Staff is simultaneously preparing a Supplement to its Safety Evaluation Report for the PFS Facility ("SER") with respect to geological/seismic issues, which is to be published on or before December 21, 2001; and the Staff has been engaged, until a few days ago, in responding to the State's various discovery requests concerning this contention. These activities have involved the efforts of the same individuals who are participating in preparation of the Staff's response to the Applicant's motion, thus reducing the time available for preparing that response. Further, due to the upcoming Thanksgiving holiday, Staff personnel who are required to participate in preparing the Staff's response will be away from the office for several days, thereby further reducing the available time for responding to the Applicant's motion.

4. In view of the above, the Staff believes that it will require an additional period of approximately one week, in which to file its response to the Applicant's Summary Disposition Motion. The Staff requests that its response be filed on or before December 7, 2001, and that any reply by the State be filed ten days later, *i.e.*, by December 17, 2001. The Staff submits that this brief extension of time will not adversely affect the schedule for litigation of this or any other contention in this proceeding.

5. Staff Counsel has discussed this request with Counsel for the Applicant and Counsel for the State. Counsel for the State did not object to the Staff's request, subject to the State's being afforded the same extension of time to file its response to the Applicant's motion; the Staff does not oppose the State's request. Counsel for PFS did not object to the Staff's or State's requests.

WHEREFORE, the Staff hereby requests that the schedule for filing responses to the Applicant's Summary Disposition Motion be modified to allow the Staff and the State to file their responses by December 7, 2001, with any reply by the State to be filed by December 17, 2001.

Respectfully submitted,

/RA/
Sherwin E. Turk
Counsel for NRC Staff

Dated at Rockville, Maryland
this 21st day of November 2001

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S UNOPPOSED MOTION TO MODIFY THE SCHEDULE FOR FILING RESPONSES TO APPLICANT'S MOTION FOR SUMMARY DISPOSITION OF CONTENTION UTAH L, PART B," in the above captioned proceeding have been served on the following through deposit in the NRC's internal mail system, with copies by electronic mail, as indicated by an asterisk, or by deposit in the U.S. Postal Service, as indicated by double asterisk, with copies by electronic mail this 21st day of November, 2001:

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