

RAS 3722

STATE OF UTAH
OFFICE OF THE ATTORNEY GENERAL

DOCKETED
USNRC



January 3, 2002 (8:53AM)

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December 27, 2001

The Commissioners
U.S. Nuclear Regulatory Commission
Mail Stop O-16 G15
One White Flint North
11555 Rockville Pike
Rockville, MD 20852-2738

Re: Errata to State's Request to Brief the Commission (December 21, 2001)

Dear Commissioners;

Enclosed is the errata for the "State of Utah's Request to the Commission for an Opportunity to Brief the Licensing Board's Referred Question to the Commission in LBP-01-37" (December 21, 2001).

This errata page corrects the date on the first page of the State's Request to reflect December 21, 2001, the date the request was filed. Please replace the incorrect first page with the enclosed corrected page.

The State regrets any inconvenience this may have caused.

Sincerely,

Laura Lockhart,
Assistant Attorney General

Enclosure: as stated
cc: PFS Service List, with enclosure

Template = SECY-043

SECY-02

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

In the Matter of:)	Docket No. 72-22-ISFSI
PRIVATE FUEL STORAGE, LLC)	ASLBP No. 97-732-02-ISFSI
(Independent Spent Fuel Storage Installation))	December 21, 2001

STATE OF UTAH'S REQUEST TO THE COMMISSION FOR AN
OPPORTUNITY TO BRIEF THE LICENSING BOARD'S REFERRED
QUESTION TO THE COMMISSION IN LBP-01-37

On December 13, 2001 the Licensing Board ruled on the admissibility of Late-Filed Contention Utah RR, Suicide Mission Terrorism and Sabotage. LBP-01-37. For the most part the Board found that the contention met the late filed factors but the Board denied admission of the contention. The Board found that the question of the agency's NEPA responsibilities relating to a September 11, 2001-type event was "a close one." LBP-01-37, slip op at 13. The Board observed that things are not -- and may never be -- the same after September 11 and as the Commission currently is considering regulatory changes in the wake of that fateful day, it referred the matter to the Commission. *Id.* slip op at 14.

Another licensing board (the MOX Board) ruled in favor of admission of a NEPA contention relating to a September 11, 2001-type event. Duke Cogema Stone & Webster (Savannah River Mixed Oxide Fuel Fabrication Facility), LBP-01-35, 54 NRC ___, ___ (slip op. at 50-55) (Dec. 6, 2001). There is a direct conflict between the PFS and the MOX Licensing Boards. Moreover, the PFS Board's ruling raises the question of the application of