

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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BEFORE THE ATOMIC SAFETY AND LICENSING BOARDOFFICE OF THE SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

In the Matter of:

Docket No. 72-22-ISFSI

PRIVATE FUEL STORAGE, LLC
(Independent Spent Fuel
Storage Installation)

ASLBP No. 97-732-02-ISFSI

November 6, 2001

STATE OF UTAH'S MOTION TO EXTEND DISCOVERY PERIOD ON
CONTENTION UTAH L FOR DEPOSITIONS

The Board has scheduled a discovery window for Contention Utah L, Part B (seismic exemption) from September 17, 2001 until November 16, 2001. During this period, if a motion for summary disposition is filed, it must be done so by November 9, 2001. See Board's General Schedule as revised September 20, 2001.

By agreement, the State and the Applicant have arranged to depose witnesses for Utah L, Part B during the week of October 29th and November 12th. Although the Staff has not supplemented its response to State of Utah's First Set of Discovery Requests Directed to the NRC Staff, General Interrogatory Nos. 3 through 5 (June 10, 1999) to name witnesses and provide other relevant information on each admitted contention, the State has attempted to secure the identification and scope of testimony for Staff witness(es) since October 12th¹. On October 23, 2001, counsel for the Staff proffered that it "anticipates" it will name John Stamatakis and also "anticipates" that it may name other witnesses.

¹When NRC Staff is a party to a proceeding, the Executive Director for operation must designate and make available one or more witnesses for deposition. 10 CFR § 2.720(h)(2)(i).

However, Staff counsel stated that due to his work load, Dr. Stamatakos is “unlikely” available for depositions the last and only available week of the discovery period (November 12th-16th). In a brief discussion yesterday, November 5, 2001, Staff counsel indicated that it hoped to name a panel of three witnesses, including Dr. Stamatakos and two un-named witnesses. Further, Staff counsel has not yet determined a deposition location where the Staff will make its witness panel available. Pending verification of availability, Staff counsel proposed to offer its witnesses on November 19th and 20th, 2001 in either Washington, D.C. or Salt Lake City.

Deposition of Staff witnesses is necessary to a proper decision in this proceeding because, as the record now stands, it is the Staff’s rationale in the Safety Evaluation Report (“SER”) that supports the grant of an exemption from the duly enacted regulatory standards and the use of a probabilistic approach and a 2,000 year return period earthquake. Moreover, PFS incorporated by reference and adopted the Staff’s “bases [in the SER] asserted by the NRC Staff in granting Applicant’s requested exemption allowing the use of a probabilistic seismic hazard analysis [] based on a 2,000 year return period earthquake in the seismic design of the PFSF.” *See* Applicant’s Objections and Responses to the State of Utah’s Eleventh Set of Discovery Requests Directed to the Applicant, Response to Interrogatory 15 (October 2, 2001) at 14.

The State hopes it will be able to coordinate a schedule to take depositions of Staff witnesses on or before November 21, 2001.² Therefore, the State requests an extension of

²At this time, Staff counsel has not identified all witnesses or specified the time and location of their availability for depositions.

the discovery period through November 21, 2001 to allow it sufficient time to depose named Staff witnesses.³ The Staff and PFS do not object to an extension through November 21, 2001. If granted, this extension will not delay the schedule.

DATED this 6th day of November, 2001.

Respectfully submitted,



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³ Note that if necessary deposition participants are not available the week of November 21st, the State will request an additional extension to take depositions of Staff witnesses.

CERTIFICATE OF SERVICE

I hereby certify that a copy of STATE OF UTAH'S MOTION TO EXTEND DISCOVERY PERIOD FOR CONTENTION UTAH L was served on the persons listed below by electronic mail (unless otherwise noted) with conforming copies by United States mail first class, this 6th day of November, 2001:

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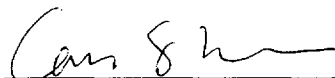
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