

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSIONBEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	Docket No. 72-22-ISFSI
PRIVATE FUEL STORAGE, L.L.C.)	
)	ASLBP No. 97-732-02-ISFSI
(Independent Spent)	
Fuel Storage Installation))	

ERRATA TO "NRC STAFF'S RESPONSE TO 'STATE OF UTAH'S
REQUEST FOR ADMISSION OF LATE-FILED CONTENTION UTAH SS'"

The NRC Staff ("Staff") has discovered an error in the "NRC Staff's Response to 'State of Utah's Request for Admission of Late-Filed Contention Utah SS,'" dated February 26, 2002 ("Staff Response"), which requires correction.¹ Specifically, in section 1 of the Staff's argument ("Basis 1, regarding a 20 year period of operations, is late without good cause"), the Staff stated as follows:

Simply stated, the State could have raised a contention on the period of operations presumed in the cost-benefit analysis when it filed its initial contentions in 1997 -- based on the ER, which, as submitted in 1997, stated that the cost-benefit analysis for the proposed ISFSI was conducted "assuming . . . a 40 year operating period." ER, Rev. 0, Chap. 7, at 7.7-2. However, proposed Contention Utah CC did not raise any issue with respect to the period of operations presumed for the proposed PFSF in PFS's cost-benefit analysis.

Staff's Response at 7. In fact, further review of the Applicant's Environmental Report ("ER") discloses that (a) the original ER contained analyses for both 20- and 40-year terms; (b) the 20-year analysis was deleted with ER Rev. 6 -- although one extraneous reference to a 20-year license duration, in Appendix 7B at 1, remained; and (c) the extraneous reference to a 20-year license duration was deleted by ER Rev. 13, dated March 30, 2001. Accordingly, the referenced paragraph in the Staff's Response should be corrected to read as follows:

¹ The Staff has attempted to notify Counsel for the State of this correction by telephone, on March 7, 2002, but was unable to reach her prior to the filing of this "Errata."

Simply stated, the State could have raised a contention on the period of operations presumed in the cost-benefit analysis as early as December 1999, based on Rev. 6 of the ER, which, as submitted on December 16, 1999, stated that the cost-benefit analysis for the proposed ISFSI was conducted “assuming . . . a 40 year operating period.” ER, Rev. 6, Chap. 7, at 7.2-2.

Similarly, for the reasons stated above, a paragraph that appears in section 2 of the Staff’s argument (“Basis 2, regarding a ‘breakeven capacity,’ is late without good cause”) (Staff Response at 10), should be modified as follows:

As set forth above, the State had ample information available to it to formulate such a contention when Revision 6 to the ER was filed, when the DEIS was issued, when the ERI Report was received, or, at the latest, when PFS submitted its responses to the Staff’s third request for additional information in November, 2000. See PFS Third RAI Response (Nov. 15) at 2; PFS Third RAI Response (Nov. 22) at 2. Accordingly, the State has not demonstrated good cause for late filing of this portion of Contention Utah SS.

In sum, the 40-year case was addressed in the ER prior to issuance of the Staff’s FEIS in December 2001, and the State could have filed this contention upon its receipt of either (a) ER Rev. 6 in December 1999, (b) the Staff’s Draft Environmental Impact Statement, NUREG-1714, in June 2000, or (c) PFS’s assumptions and calculations, set forth in “Utility At-Reactor Spent Fuel Storage Costs For The Private Fuel Storage Facility Cost-Benefit Analysis,” Rev. 2, ERI-2025-0001 (April 2000), referred to in the DEIS, in § 8.1.1 -- which the State received on September 15, 2000.²

The Staff regrets any confusion that may have been occasioned by this error.

Respectfully submitted,

/RA/

Robert M. Weisman
Counsel for NRC Staff

Dated at Rockville, Maryland
this 7th day of March 2002

² See “State of Utah’s Request for Admission of Late-Filed Contention Utah SS,” dated February 11, 2002, Exhibit 2 at 2.

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CERTIFICATE OF SERVICE

I hereby certify that copies of "ERRATA TO 'NRC STAFF'S RESPONSE TO 'STATE OF UTAH'S REQUEST FOR ADMISSION OF LATE-FILED CONTENTION UTAH SS'" 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 7th day of March, 2002:

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/RA/

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