

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 MOTION FOR AN EXTENSION OF TIME  
TO REPLY TO THE APPLICANT'S AND STATE'S PROPOSED FINDINGS OF  
FACT AND CONCLUSIONS OF LAW ON UNIFIED CONTENTION UTAH L/QQ

Pursuant to 10 C.F.R. § 2.730, the NRC Staff ("Staff") hereby requests that the Atomic Safety and Licensing Board grant the Staff an extension of time of three business days, until October 16, 2002, in which to reply to the proposed findings of fact and conclusions of law concerning Unified Contention Utah L/QQ (Geotechnical Issues), filed by Private Fuel Storage, L.L.C. ("PFS" or "Applicant") and the State of Utah ("State"). In support of this request, the Staff states as follows:

1. On September 5, 2002, the parties filed extensive proposed findings of fact and conclusions of law concerning Unified Contention Utah L/QQ. These included a 249-page filing by the State, a 333-page filing by the Applicant, and a 273-page filing by the Staff.<sup>1</sup> In accordance with the Licensing Board's establishment of a 5-week response time and its Order of August 21, 2002, the parties are scheduled to file their replies to each other's filings on October 10, 2002.

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<sup>1</sup> See (1) "Applicant's Proposed Findings of Fact and Conclusions of Law on Unified Consolidated Contention Utah L/QQ (Seismic)," dated September 5, 2002; (2) "State of Utah's Proposed Findings of Fact and Conclusions of Law on Unified Contention Utah L/QQ," dated September 5, 2002; and (3) "NRC Staff's Findings of Fact and Conclusions of Law Concerning Unified Contention Utah L/QQ (Geotechnical Issues)," dated September 5, 2002.

2. The Staff has found it necessary to request a brief extension of time for filing its reply, due to the extensive length of the parties' initial filings, the complexity and multiplicity of the issues raised in this contention, and the need to consult with its witnesses concerning its reply. In addition, the responsibility for reviewing the evidentiary record on Parts C, D and E of this contention (other than radiological dose issues), and for reviewing the other parties' initial proposed findings of fact concerning those issues, has necessarily been assumed by the undersigned attorney, following the withdrawal of the attorney who represented the Staff in litigating Part C of the contention and who was primarily responsible for preparing the Staff's initial proposed findings of fact concerning Part C. See NRC Staff's Proposed Findings of Fact at 22 n.27. These factors have contributed to the Staff's need for a brief extension of time in which to file its reply findings of fact and conclusions of law.<sup>2</sup>

3. Counsel for the Staff has contacted Counsel for the State and Counsel for the Applicant. Counsel for the State opposes the Staff's request, on the grounds that it believes sufficient time has been available for the Staff to prepare its reply and, in its view, the Staff need only reply to one set of proposed findings;<sup>3</sup> Counsel for the Applicant opposes the Staff's motion for the reasons stated in its opposition to the State's August 20, 2002 motion for an extension of time to file its initial proposed findings of fact and conclusions of law (see State's Motion, at 2). Further, however, Counsel for the Applicant and the State request, if the Staff's motion is granted,

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<sup>2</sup> The Staff notes that the Licensing Board previously granted the State's motion for an extension of time of three working days (six total days) in which to file its initial proposed findings of fact on this contention; that request was opposed by the Applicant, but was not opposed by the Staff. See Order of August 21, 2002, at 1; "State of Utah's Motion for an Extension of Time to File Findings of Fact and Conclusions of Law on Unified Contention Utah L/QQ (Geotechnical)" ("State's Motion"), dated August 20, 2002, at 2.

<sup>3</sup> The Staff does not share the State's view of its responsibilities. The Staff has been obliged to review carefully the Applicant's proposed findings of fact and conclusions of law, and to determine whether and to what extent a reply is required -- even though the Applicant's proposed findings of fact may appear, upon a reading thereof, to be generally consistent with the Staff's proposed findings.

that they be provided an equivalent extension of time in which to file their reply findings of fact and conclusions of law; the Staff does not oppose that request.

WHEREFORE, the Staff requests an extension of time of three business days, until October 16, 2002, in which to file its reply findings of fact and conclusions of law concerning Unified Contention Utah L/QQ.

Respectfully submitted,

***/RA/***

Sherwin E. Turk  
Counsel for NRC Staff

Dated at Rockville, Maryland  
this 7<sup>th</sup> day of October 2002

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Fuel Storage Installation) )

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S MOTION FOR EXTENSION OF TIME TO REPLY TO THE APPLICANT'S AND STATE'S PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW ON UNIFIED CONTENTION UTAH L/QQ," 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 October, 2002:

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