

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

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

NRC STAFF'S RESPONSE
TO "UTAH'S MOTION TO ALLOW THREE-PAGE
SUPPLEMENT ON THE MEANING OF 42 U.S.C. § 10155(h)"

Pursuant to 10 C.F.R. § 2.730 (c), the staff of the Nuclear Regulatory Commission (Staff) hereby responds to "Utah's Motion to Allow Three-Page Supplement on the Meaning of 42 U.S.C. §10155 (h)," dated October 2, 2002.

The State seeks to supplement its May 15, 2002, brief and its June 17, 2002, reply brief regarding its "Suggestion of Lack of Jurisdiction." Regarding the timing of its Motion, the State asserts that it comes "within five days of when one of Utah's lawyers first had the flash leading to the [supplement]." Motion at 2.

The Staff opposes the State's Motion on the basis that the State lacks good cause for filing a new supplement at this time. The State has had ample opportunity since 1997, when it filed Contention Utah A alleging the Commission's lack of legal authority to license the PFS ISFSI, to develop and air its arguments. Furthermore, if litigants to adjudicatory proceedings are permitted to supplement their filings whenever their attorneys think of new arguments that they could have

raised earlier, the Commission's policies of ensuring the efficient conduct of proceedings would be thwarted. See "Statement of Policy on Conduct of Adjudicatory Proceedings," CLI-98-12, 48 NRC 18 (1998). Accordingly, the State's Motion should be denied.

Respectfully submitted,

/RA/

Catherine L. Marco
Counsel for NRC Staff

Dated this 10th day of October, 2002
at Rockville, Maryland

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S RESPONSE TO 'UTAH'S MOTION TO ALLOW THREE-PAGE SUPPLEMENT ON THE MEANING OF 42 U.S.C. §10155(h)'" 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 10th day of October, 2002:

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