

January 14, 2004 (9:48AM)

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSIONOFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFFBEFORE THE COMMISSIONERS

In the Matter of:

Docket No. 72-22-ISFSI

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

ASLBP No. 97-732-02-ISFSI

January 8, 2004

STATE OF UTAH'S UNOPPOSED MOTION FOR EXTENSION OF THE
PAGE LIMIT FOR ITS COMBINED PETITION FOR REVIEW OF THE
BOARD'S PARTIAL INITIAL DECISIONS ON CONTENTIONS UTAH E
(FINANCIAL ASSURANCE) AND UTAH S (DECOMMISSIONING) AND
RELATED MATTERS

By Order dated June 16, 2003, the Commission set forth the procedure and page limitations for petition for review of Licensing Board decisions relating to financial matters.¹ The Commission granted Utah's request that it may file a combined petition for review of Contentions Utah E and S and related matters within 10 days of the Board's ruling on PFS's Motion for Clarification and/or Reconsideration of financial qualification decisions, and extended the page limitation to 20 pages (plus a reference appendix). In addition, the Commission granted Utah's request that it may file a seven page supplement to its petition for review within seven days of receiving the Board's ruling on which documents are confidential and which will be part of the public record. However, if the Board were to issue its confidentiality ruling within three days of the Reconsideration ruling, then Utah must file

¹ Partial Initial Decision (Contention Utah E/Confederated Tribes F, Financial Assurance); Partial Initial Decision (Contention Utah S, Decommissioning); and Memorandum and Order (Rulings on Summary Disposition Motion and Other Filings Relating to Remand from CLI-00-13) (May 27, 2003). *See also* Commission Memorandum CLI-00-24, 52 NRC 351 (2000).

a single petition not exceeding 27 pages. See Commission Order (June 16, 2003).

On January 5, 2004, the Bollwerk Licensing Board issued its Memorandum and Order granting in part and denying in part PFS's motion for reconsideration and/or clarification of financial qualifications decisions. To date, the Board has not issued its confidentiality decision as to the record relating to Contentions Utah E and Utah S, and it is unlikely to do so until after January 30, 2004 when final responses to confidentiality claims as to the Reconsideration decision are due. Reconsideration Ruling at 20.

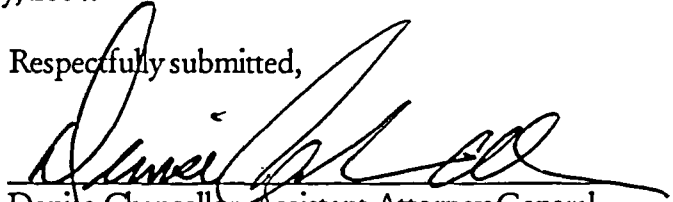
Utah has prepared a draft petition for review of Contentions Utah E and Utah S which it intends to file on January 15, 2004, in accordance with the schedule established in the Commission's Order. However, while the State has attempted to prepare a response limited to 20 pages, the State has found that it may require up to 25 pages (plus a reference appendix) for its petition to adequately address the 10 C.F.R. § 2.785 factors, especially as they relate to issues of first impression as well as the circuitous procedural complexity of PFS's financial assurance demonstration.² The State submits that a five-page extension is reasonable and requests that it may file a 25 page petition for review (plus reference appendix) of issues relating to Contentions Utah E and Utah S. As to the Board's future confidentiality ruling(s), the State will follow the established procedure and page limitation already set in the Commission's June 16, 2003 Order.

²For a summary of issues and Board rulings relating to Utah E and Utah S that the State must address in its petition, see State of Utah's Request for an Extension of Time for Filing its Combined Petition for Review of the Board's Partial Initial Decisions on Contentions Utah E and Utah S and on All Issues Relating to Contentions E and S, Including Decision on Summary Disposition Relating to Remand from CLI-00-13 and for an Enlargement of the Page Limitation (Many 30, 2003).

Counsel for the State has contacted counsel for the Applicant and the NRC Staff, neither of whom objects to the State's request provided they may have up to 25 pages (plus a reference appendix) to file a response to the State's Petition for review.

DATED this 8th day of January, 2004.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Denise Chancellor", is written over a horizontal line.

Denise Chancellor, Assistant Attorney General
Fred G Nelson, Assistant Attorney General
Connie Nakahara, Special Assistant Attorney General
Laura Lockhart, Assistant Attorney General
Attorneys for State of Utah
Utah Attorney General's Office
160 East 300 South, 5th Floor, P.O. Box 140873
Salt Lake City, UT 84114-0873
Telephone: (801) 366-0286, Fax: (801) 366-0292

CERTIFICATE OF SERVICE

I hereby certify that a copy of STATE OF UTAH'S UNOPPOSED MOTION FOR EXTENSION OF THE PAGE LIMIT FOR ITS COMBINED PETITION FOR REVIEW OF THE BOARD'S PARTIAL INITIAL DECISIONS ON CONTENTIONS UTAH E (FINANCIAL ASSURANCE) AND UTAH S (DECOMMISSIONING) AND RELATED MATTERS was served on the persons listed below by electronic mail (unless otherwise noted) with conforming copies by United States mail first class, this 8th day of January, 2004:

Emile L. Julian, Assistant for
Rulemakings and Adjudications
Rulemaking & Adjudication Staff
Secretary of the Commission
U. S. Nuclear Regulatory Commission
Washington D.C. 20555
e-mail: hearingdocket@nrc.gov
(original and two copies)

Nils J. Diaz, Chairman
U.S. Nuclear Regulatory Commission
Mail Stop O-16 G15
One White Flint North
11555 Rockville Pike
Rockville, MD 20852-2738
e-mail: chairman@nrc.gov

Edward McGaffigan, Jr., Commissioner
U.S. Nuclear Regulatory Commission
Mail Stop O-16 G15
One White Flint North
11555 Rockville Pike
Rockville, MD 20852-2738
e-mail: cmrmcgaffigan@nrc.gov

Jeffrey S. Merrifield, Commissioner
U.S. Nuclear Regulatory Commission
Mail Stop O-16 C1
One White Flint North
11555 Rockville Pike
Rockville, MD 20852-2738
e-mail: cmrmerrifield@nrc.gov

G. Paul Bollwerk, III, Chairman
Administrative Judge
Atomic Safety and Licensing Board
U. S. Nuclear Regulatory Commission
Washington, DC 20555
E-Mail: gpb@nrc.gov

Dr. Jerry R. Kline
Administrative Judge
Atomic Safety and Licensing Board
U. S. Nuclear Regulatory Commission
Washington, DC 20555
E-Mail: jrk2@nrc.gov
E-Mail: kjerry@verizon.net

Dr. Peter S. Lam
Administrative Judge
Atomic Safety and Licensing Board
U. S. Nuclear Regulatory Commission
Washington, DC 20555
E-Mail: psl@nrc.gov

Sherwin E. Turk, Esq.
Catherine L. Marco, Esq.
Office of the General Counsel
Mail Stop - 0-15 B18
U.S. Nuclear Regulatory Commission
Washington, DC 20555
E-Mail: set@nrc.gov
E-Mail: clm@nrc.gov
E-Mail: pfscase@nrc.gov

Jay E. Silberg, Esq.
Paul A. Gaukler, Esq.
Shaw Pittman
2300 N Street, N. W.
Washington, DC 20037-8007
E-Mail: Jay_Silberg@shawpittman.com
E-Mail: paul_gaukler@shawpittman.com

John Paul Kennedy, Sr., Esq.
David W. Tufts
Durham Jones & Pinegar
111 East Broadway, Suite 900
Salt Lake City, Utah 84111
E-Mail: dtufts@djplaw.com

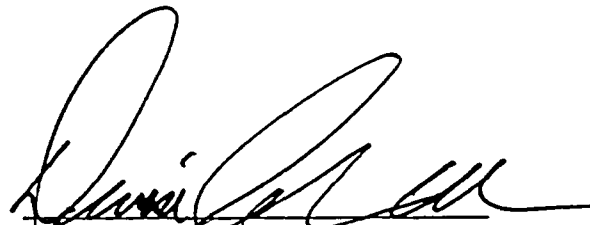
Joro Walker, Esq.
Land and Water Fund of the Rockies
1473 South 1100 East, Suite F
Salt Lake City, Utah 84105
E-Mail: jwalker@westernresources.org
(*electronic copy only*)

Larry EchoHawk
Paul C. EchoHawk
Mark A. EchoHawk
EchoHawk Law Offices
151 North 4th Avenue, Suite A
P.O. Box 6119
Pocatello, Idaho 83205-6119
E-mail: paul@echohawk.com
(*electronic copy only*)

Tim Vollmann
3301-R Coors Road N.W. # 302
Albuquerque, NM 87120
E-mail: tvollmann@hotmail.com

James M. Cutchin
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
E-Mail: jmc3@nrc.gov
(*electronic copy only*)

Office of the Commission Appellate
Adjudication
Mail Stop: 16C1
U. S. Nuclear Regulatory Commission
Washington, DC 20555
(*United States mail only*)



Denise Chancellor
Assistant Attorney General
State of Utah