

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Commission

June 3, 2005

DOCKETED
USNRC

June 3, 2005 (2:12pm)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

In the Matter of)

PRIVATE FUEL STORAGE L.L.C.)

(Private Fuel Storage Facility))

Docket No. 72-22

ASLBP No. 97-732-02-ISFSI

APPLICANT'S MOTION FOR EXTENSION OF TIME TO RESPOND TO STATE OF
UTAH PETITION FOR REVIEW OF CONTENTION UTAH K

Applicant Private Fuel Storage L.L.C. ("PFS") hereby requests an extension of time, to 20 days, to respond to the State of Utah's petition for review on issues related to Contention Utah K, which is due to be filed on June 13, 2005. See State of Utah's Motion for Enlargement of the Page Limitation for Petition for Review of Contention Utah K (May 24, 2005) ("Mot. for Enlargement"). PFS respectfully submits that it has good cause to request an extension based on the allowable length of the State's petition and the amount of time the State will have had to prepare it. See 10 C.F.R. § 2.711(a) (2004).¹

Ordinarily, a party would have 10 days to respond to a petition for review, which would normally be due 15 days after the issuance of the decision to be challenged and would normally be limited to 10 pages in length. See 10 C.F.R. §§ 2.786(b)(1) and (2) (2004). In this instance, by contrast, under the Commission's June 2, 2005 Order, the State will be allowed to file a 30-page petition for review and PFS and the NRC Staff will be allowed to file 30-page responses.² Furthermore, the Atomic Safety and Licensing Board allowed the State 20 days after the Board's May 24 ruling on the State's request for reconsideration of the Board's aircraft crash consequences decision to file the State's petition. See LBP-05-12, 61 NRC __, __, slip op. at 30 (May

¹ Citations are to the Commission's prior rules of practice, which are still applicable to this case. See CLI-05-01, slip op. (Jan. 5, 2005) at 4 n.5.

² The Commission had earlier allowed the State 20 pages for its petition. Order (Mar. 11, 2005).

24, 2005).³ In addition, the Board's aircraft crash consequences decision, which is the underlying decision the State's petition will be challenging,⁴ was issued 89 days earlier, on February 24. See LBP-05-12, slip op. at 30. Thus, in total, the State will have had over 100 days to prepare its petition for review. Therefore, PFS submits that it has good cause to request a period of 20 days to respond.⁵

Counsel for PFS has contacted counsel for the NRC Staff and the State of Utah regarding this motion. The Staff does not object to PFS's request so long as it is allowed an equal amount of time to respond to the State's petition. The State takes no position on PFS's request.

Respectfully submitted,



Jay E. Silberg
Paul A. Gaukler
D. Sean Barnett
PILLSBURY WINTHROP
SHAW PITTMAN, LLP
2300 N Street, N.W.
Washington, DC 20037
Counsel for Private Fuel Storage L.L.C.

June 3, 2005

³ The Board noted that petitions for review would be due 15 days after the issuance of the ruling, which the Board stated should be considered to have been served by regular mail (although the Board served it on all parties by e-mail). Under the Commission's rules, service by regular mail adds five days to the time within which responsive pleadings are due. 10 C.F.R. § 2.710 (2004).

⁴ Indeed, the State asserts that it is permitted to challenge any prior decision related to Contention Utah K, potentially going back to the admission of the contention in 1998. See Mot. for Enlargement at 2.

⁵ If PFS's request is granted, its response would be due on July 5, 2005 because of the July 4 holiday weekend.

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

Before the Commission

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

CERTIFICATE OF SERVICE

I hereby certify that copies of the Applicant's Motion for Extension of Time to Respond to State of Utah Petition for Review of Contention Utah K were served on the persons listed below (unless otherwise noted) by e-mail with conforming copies by U.S. Mail, first class, postage prepaid, this 3rd day of June, 2005.

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

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

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

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

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

Michael C. Farrar, Esq., Chairman
Administrative Judge
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
e-mail: MCF@nrc.gov

Dr. Paul B. Abramson
Administrative Judge
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
e-mail: pba@nrc.gov

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
e-mail:

Sherwin E. Turk, Esq.
Office of the General Counsel
Mail Stop O-15 B18
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
e-mail: pfscase@nrc.gov

Denise Chancellor, Esq.
Assistant Attorney General
Utah Attorney General's Office
160 East 300 South, 5th Floor
P.O. Box 140873
Salt Lake City, Utah 84114-0873
e-mail: dchancellor@utah.gov

Diane Curran, Esq.
Harmon, Curran, Spielberg &
Eisenberg, L.L.P.
1726 M Street, N.W., Suite 600
Washington, DC 20036
e-mail: dcurran@harmoncurran.com

Dr. Peter S. Lam
Administrative Judge
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
e-mail: PSL@nrc.gov

Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
Attention: Rulemakings and Adjudications
Staff
e-mail: hearingdocket@nrc.gov
(Original and two copies)

* Adjudicatory File
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001


John Paul Kennedy, Sr., Esq.
David W. Tufts, Esq.
Confederated Tribes of the Goshute
Reservation and David Pete
Durham Jones & Pinegar
111 East Broadway, Suite 900
Salt Lake City, Utah 84105
e-mail: dtufts@djplaw.com

Tim Vollmann, Esq.
Skull Valley Band of Goshute Indians
3301-R Coors Road, N.W.
Suite 302
Albuquerque, NM 87120
e-mail: tvollmann@hotmail.com

Paul EchoHawk, Esq.
Larry EchoHawk, Esq.
Mark EchoHawk, Esq.
EchoHawk PLLC
P.O. Box 6119
Pocatello, ID 83205-6119
e-mail: paul@echohawk.com

Joro Walker, Esq.
Land and Water Fund of the Rockies
1473 South 1100 East
Suite F
Salt Lake City, UT 84105
e-mail: utah@lawfund.org

* By U.S. mail only


D. Sean Barnett

Document #: 1483177 v.1