

September 21, 2000

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 RESPONSE TO STATE OF UTAH'S  
REQUEST TO WITHDRAW CONTENTION UTAH GG  
(TRANSTOR CASK/PAD STABILITY)

On September 14, 2000, the State of Utah ("State") filed the "State of Utah's Request to Withdraw Contention Utah GG" ("Request"), based on the recent withdrawal by Private Fuel Storage, L.L.C. ("PFS" or "Applicant") of most references to the TranStor cask which had been contained in its license application.<sup>1</sup> The NRC Staff ("Staff") supports the State's Request, inasmuch as this contention is moot.<sup>2</sup>

The Staff notes, however, that the State has taken this opportunity (a) to make further assertions concerning the adequacy of the cask sliding analysis performed for the HI-STORM cask (Request at 2-3) -- a matter that is not embraced by Contention Utah GG,

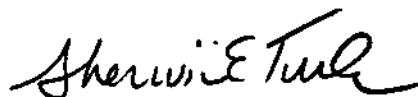
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<sup>1</sup> See Request at 1, *citing* letter from John D. Parkyn to the NRC, dated August 31, 2000, transmitting license application amendment No. 17.

<sup>2</sup> The Staff previously filed its view that this contention should be dismissed as moot, based on (a) the withdrawal by BNFL Fuel Solutions of its application for certification of the TranStor cask, and (b) PFS' request that the Commission suspend further consideration of the TranStor cask in this proceeding. See letter from Sherwin E. Turk to the Licensing Board, dated May 5, 2000. PFS' recent withdrawal of references to the TranStor cask from its license application confirms this.

which only concerns the TranStor cask,<sup>3</sup> and (b) to state its desire to utilize the Applicant's cask sliding analysis in its litigation of Contention Utah L, "as they may relate to soil stability and foundation loading in Contention Utah L" (*Id.* at 3). These assertions, however, were not presented as conditions for the State's withdrawal of Contention Utah GG; nor are they relevant to the State's withdrawal of that contention, since the contention is clearly moot in any event. Accordingly, these statements should be disregarded in the Licensing Board's determination whether to grant the State's request to withdraw Contention Utah GG.<sup>4</sup>

Respectfully submitted,



Sherwin E. Turk  
Counsel for NRC Staff

Dated at Rockville, Maryland  
this 21st day of September 2000

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<sup>3</sup> As the State notes (Request at 2), it had previously filed a contention concerning cask/pad stability for the HI-STORM cask, which the Licensing Board rejected. *See Private Fuel Storage, L.L.C.* (Independent Spent Fuel Storage Installation), LBP-98-7, 47 NRC 142, 206-09 (1998) (Contention EE).

<sup>4</sup> In addition, the Staff notes that these statements fail to establish a valid or timely new contention concerning the HI-STORM cask, and fail to establish good cause for the untimely amendment of the bases for Contention Utah L.

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| Fuel Storage Installation)  | ) |                        |

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S RESPONSE TO STATE OF UTAH'S REQUEST TO WITHDRAW CONTENTION UTAH GG (TRANSTOR CASK/PAD STABILITY)" 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 21st day of September, 2000:

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