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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

'00 FEB -2 P1:56

G. Paul Bollwerk, III, Chairman
Dr. Jerry R. Kline
Dr. Peter S. Lam

OFFICE OF GENERAL
RULEMAKING AND
ADJUDICATIONS STAFF

SERVED FEB - 2 2000

In the Matter of

PRIVATE FUEL STORAGE, L.L.C.

(Independent Spent Fuel
Storage Installation)

Docket No. 72-22-ISFSI

ASLBP No. 97-732-02-ISFSI

February 2, 2000

MEMORANDUM AND ORDER
(Requesting Clarification)

Pending before the Board is the December 30, 1999 motion of applicant Private Fuel Storage, L.L.C., (PFS) for summary disposition of contention Utah GG, Failure to Demonstrate Cask-Pad Stability During Seismic Event for TranStor Casks. On January 21, 2000, both intervenor State of Utah (State) and the NRC staff responded to the PFS motion. The State opposes the PFS request, while the staff supports the PFS motion. That same date, however, PFS advised the Board by letter that BNFL Fuel Solutions Corporation (BFS), the vendor of the TranStor cask system at issue in contention Utah GG, has requested that the staff discontinue review of its application for certification under 10 C.F.R. Part 72 and return the application to BFS. PFS states in the letter that after consultation with BFS,

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it will notify the Board of any license application or adjudicatory hearing impacts of this development.


Because the State has advised the Board that it does not intend to file a reply to the staff's response, the PFS dispositive motion on contention Utah GG now awaits a Board ruling. Before undertaking this task, in light of the developments outlined in the PFS January 21, 2000 letter, the Board desires clarification on whether this contention continues to present a matter in controversy in this proceeding.

Accordingly, relative to this contention, the Board requests that on or before Wednesday, February 9, 2000, PFS provide a statement (or motion, as appropriate) outlining its position on whether, in light of the BFS actions described in its January 21, 2000 letter, contention Utah GG continues to present a controversy cognizable in this

proceeding. Party responses to this PFS submission shall be filed on or before Wednesday, February 16, 2000.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD



G. Paul Bollwerk, III
ADMINISTRATIVE JUDGE

This memorandum and order is issued pursuant to the authority of the Atomic Safety and Licensing Board designated for this proceeding.

Rockville, Maryland

February 2, 2000

* Copies of this memorandum and order were sent this date by Internet e-mail transmission to counsel for (1) applicant PFS; (2) intervenors Skull Valley Band of Goshute Indians, Ohngo Gaudadeh Devia, Confederated Tribes of the Goshute Reservation, Southern Utah Wilderness Alliance, and the State; and (3) the staff.

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

In the Matter of

PRIVATE FUEL STORAGE, LLC

**(Independent Spent Fuel Storage
Installation)**

Docket No.(s) 72-22-ISFSI

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing M&O--REQUESTING CLARIFICATION have been served upon the following persons by U.S. mail, first class, except as otherwise noted and in accordance with the requirements of 10 CFR Sec. 2.712.

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Docket No.(s)72-22-ISFSI
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Dated at Rockville, Md. this
2 day of February 2000


Office of the Secretary of the Commission