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March 22, 2000

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

Before the Commission

OFFICE OF  
GENERAL  
ADJUTANT  
GENERAL

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

**APPLICANT'S OPPOSITION TO STATE OF UTAH'S REQUEST TO BRIEF  
THE LICENSING BOARD'S CERTIFIED QUESTION TO THE COMMISSION**

On March 17, 2000, the State of Utah asked the Commission for the opportunity to brief the question which the Atomic Safety and Licensing Board ("Licensing Board") referred to it in Private Fuel Storage, L.L.C. (Independent Spent Fuel Storage Installation), LBP-00-6, 51 NRC \_\_\_, slip op. at 70-72 (2000).<sup>1</sup> Pursuant to 10 C.F.R. § 2.730(c), Applicant Private Fuel Storage, L.L.C. ("PFS") files this answer opposing the request.

PFS respectfully submits that there is no need for the parties to brief the Commission on the referred question, nor indeed the need for the Commission to review it. There is already a fully-developed record. The parties have filed a substantial volume of pleadings concerning the referred question with the Licensing Board.<sup>2</sup> The Board has

<sup>1</sup> "State of Utah's Request to the Commission for an Opportunity to Brief the Licensing Board's Certified Question to the Commission," (March 17, 2000).

<sup>2</sup> Applicant's Motion for Partial Summary Disposition of Utah Contention E and Confederated Tribes Contention F (December 3, 1999); NRC Staff's Response to Applicant's Motion for Partial Summary Disposition of Utah Contention E and Confederated Tribes Contention F (December 22, 1999); State of Utah's Response to the Applicant's Motion for Partial Summary Disposition of Utah Contention E and Confederated Tribes Contention F (December 27, 1999); State of Utah's Reply to the Staff's Response to the Applicant's Motion for Partial Summary Disposition of Utah Contention E/Confederated Tribes Contention F (January 10, 2000); State of Utah's Request for Admission of Late-Filed Bases for Utah Contention E (January 26, 2000); Applicant's Response to State of Utah's Request for Admission of Late-Filed Bases for Utah Contention E (February 4, 2000); NRC Staff's Response to State of Utah's Request for Admission of

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carefully evaluated these arguments. See Private Fuel Storage, LBP-00-6, 51 NRC at \_\_, slip op. at 11-19; Private Fuel Storage, L.L.C. (Independent Spent Fuel Storage Installation), LBP-00-7, 51 NRC \_\_, slip op. at 2-8 (2000). PFS believes that further pleadings at this point would be both unnecessary and redundant. Indeed, the State's last pleading on the referred question merely incorporated by reference large portions of earlier pleadings related to the same issue.<sup>3</sup>

The Licensing Board has written a clear and sound ruling on the application of the Commission's decision in Louisiana Energy Services, L.P. (Claiborne Enrichment Center), CLI-97-15, 46 NRC 294 (1997) to the financial assurance requirements of 10 C.F.R. Part 72. While the State asserts that the referred question forms the heart of its concern regarding PFS's financial qualifications, the same can be said of any other issue disposed of on summary disposition. The Licensing Board carefully considered the question and correctly applied the Commission's Claiborne decision in disposing of the issues in the State's contention. Thus, no Commission action is needed at this time.

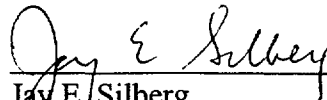
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Late-Filed Bases for Utah Contention E (February 4, 2000); State of Utah's Reply to Applicant's and NRC Staff's Responses to State of Utah's Request for Admission of Late-Filed Bases for Utah Contention E (February 11, 2000).

<sup>3</sup> See State of Utah's Request for Admission of Late-Filed Bases for Utah Contention E (January 26, 2000), at 5.

Therefore, the Applicant asks that the State's request be denied.

Respectfully submitted,

A handwritten signature in cursive script, reading "Jay E. Silberg", is written over a horizontal line.

Jay E. Silberg

Ernest L. Blake, Jr.

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Dated: March 22, 2000

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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 Opposition to State of Utah's Request to Brief the Licensing Board's Certified Question to the Commission" was served on the persons listed below (unless otherwise noted) by e-mail with conforming copies by U.S. mail, first class, postage prepaid, this 22<sup>nd</sup> day of March 2000.

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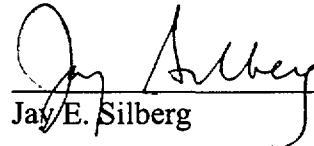
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