

RAS-1640

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USNRC

March 28, 2000  
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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
Before the Atomic Safety and Licensing Board

CIVIL  
ADJUDICATIVE  
PROCESS

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

**JOINT REQUEST TO EXTEND DATE FOR COMPLETION OF  
DEPOSITIONS OF STATE'S EXPERTS FOR UTAH CONTENTION H**

Applicant Private Fuel Storage L.L.C. ("Applicant" or "PFS") files this Joint Request on behalf of itself and the State of Utah to request an extension of the completion of the depositions of the State's experts (Dr. Marvin Resnikoff and Matthew R. Lamb) for Utah Contention H to April 13, 2000, in order to allow the State's experts to complete their evaluations prior to the completion of the depositions. Further, PFS and the State also desire to advise the Board that, based on evaluations done to date by the State and discussions between PFS and the State, the parties are able at this time to narrow the focus of the litigation of contention Utah H to bases 3, 4, and 5 (as explained below), and hope to further narrow and identify, and possibly eliminate, issues to be litigated under Utah H.

On February 1, 2000, PFS filed a "Joint Request for Modification of Discovery Schedule for Depositions" on behalf of itself and the State to request the deferral of the depositions of Dr. Marvin Resnikoff and Matthew R. Lamb (the State's witnesses for

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Utah H) and of Dr. Kris Singh and Dr. Indresh Rampall (two of PFS's witnesses for Utah H) to March 8 and 9, 2000. By Memorandum and Order (General Schedule Revision and Other Matters) of February 2, 2000, the Atomic Safety and Licensing Board ("Board"), allowed the deferral of the depositions for Utah H as requested by PFS and the State.

The depositions of Dr. Kris Singh and Dr. Indresh Rampall and of Dr. Marvin Resnikoff and Matthew R. Lamb were conducted the week of March 6, 2000 as allowed by the Board's February 2, 2000 Order. However, the depositions of the State's two witnesses, Dr. Resnikoff and Matthew Lamb, were not able to be completed because of additional evaluations that they were in the process of performing. Accordingly, the parties agreed to continue their depositions to the last week in March and advised the Board of their agreement in the March 17, 2000 "Joint Report On Matters Requested in LBP-00-06." By Memorandum and Order (Making Publicly Available Decision Regarding Contention Utah E/Confederated Tribes F and Extending Discovery Period) of March 20, 2000, the Board granted the parties' proposed request for continuation and ordered that the depositions of Dr. Resnikoff and Mr. Lamb be completed on or before Friday, March 31, 2000.

The State has subsequently provided to PFS additional information with respect to Utah H and, based on the evaluations done to date by the State and discussions between the parties, PFS and the State have been able to narrow the focus of the litigation of Utah H. Specifically, the State no longer claims, as set forth in bases 6 and 7, that the concrete structures of the proposed cask storage systems for the Private Fuel Storage Facility ("PFSF") are not designed to withstand the temperatures at the PFSF site, providing the concrete aggregate mix specified in ACI-349 is utilized. ACI-349 includes provisions on

constituent materials (cement, aggregate, admixture, water content and air entrainment), processes (mixing, conveying depositing and curing) and quality control. Thus, bases 6 and 7 may be dismissed, subject to this proviso.

Further, the State does not contest the temperature data used by PFS to determine the far-field ambient temperatures at the PFSF site (i.e., temperatures at the PFSF site unaffected by the presence of concrete pads and casks, which are the subjects of bases 3, 4 and 5). In other words, there is no dispute between the State and PFS as to the applicable, available meteorological data to be used in determining the sufficiency of the thermal design of the casks for use at the PFSF, but rather, the dispute is focused on the asserted effects of the concrete pads and casks (as set forth in bases 3, 4, and 5) on the local temperatures at the inlet ducts of the casks. With this understanding, there is no longer any litigable dispute with respect to basis 2, and that basis may be dismissed. Finally, basis 1 may be dismissed in that the State acknowledges that PFS has subsequently done an analysis at 125 degrees Fahrenheit.

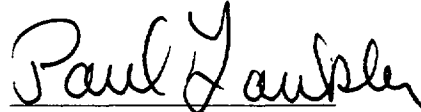
Thus, the parties have agreed that the litigation of Utah H can be limited to bases 3, 4, and 5 in which the State claims that PFS has not taken into account effects of the concrete pads and concrete casks in determining the actual, local temperatures seen by the casks and the sufficiency of the casks' thermal design for use at the PFSF site. The State is still in the process of evaluating issues related to bases 3, 4, and 5, which it expects to be completed no later than April 7, 2000. Accordingly, the parties request the Board to extend the date for completion of the deposition of the State's experts (Dr. Resnikoff and Mr. Lamb) to April 13, 2000. PFS and the State are discussing the evaluations done to date by the State, and it is possible that further evaluations by the

State and discussion between the parties, may avoid the need for the continuation of the depositions altogether, and potentially further reduce the scope of litigation on Utah H.

Wherefore, PFS and the State request the Board to allow the completion of the depositions of Dr. Marvin Resnikoff and Matthew R. Lamb on April 13, 2000. PFS and the State agree that completion of the depositions of the two State witnesses on this schedule will not delay or otherwise impact the schedule for hearing any remaining Utah H issues in June.

Counsel for Applicant has called Counsel for the NRC Staff who has stated that he has no objection to the above request.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Paul A. Gaukler". The signature is fluid and cursive, with the first name "Paul" being more prominent.

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Dated: March 28, 2000

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(Private Fuel Storage Facility)	)	ASLBP No. 97-732-02-ISFSI

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the "Joint Request to Extend Date for Completion of Depositions of State's Experts for Utah Contention H" 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 28th day of March 2000.

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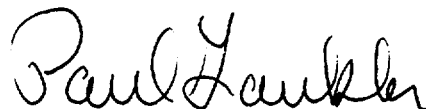
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