

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

---

In the Matter of:

PRIVATE FUEL STORAGE, LLC  
(Independent Spent Fuel  
Storage Installation)

)  
)  
)  
)  
)  
)

Docket No. 72-22-ISFSI

ASLBP No. 97-732-02-ISFSI

March 18, 1998

---

**STATE OF UTAH'S RESPONSE TO THE BOARD'S REQUEST FOR  
INFORMATION REGARDING CONTENTIONS INVOLVING  
PROPRIETARY AND SAFEGUARDS MATERIAL**

The State responds to the Board's March 9, 1998, Order requesting information regarding contentions involving proprietary and safeguards material. The State's preference is that any and all information in this proceeding should be open and available for public scrutiny and discussion, but the State realizes that such an open policy may not be possible with respect to proprietary and safeguards information.

With respect to Utah Contentions EE and GG, the State is constrained from disclosing proprietary information under its confidentiality agreements with Holtec and Sierra Nuclear. Under these circumstances, the State believes that it is up to PFS and/or the Staff to determine whether all and any of Utah Contentions EE and GG may be disclosed. Furthermore, because of the confidentiality agreements, the State is precluded from providing proprietary information to the Board. The State and PFS have mutually agreed that PFS will provide the Board with the proprietary and non-

proprietary information referenced in Utah Contentions EE and GG and the responses and replies to those contentions. With respect to safeguards contentions, Utah Security-A through Utah Security-I, the State will rely on the Staff's determination of what information may be disclosed.

Of particular concern to the State is that Contentions EE and GG and the safeguards contentions be read, reviewed and analyzed as a whole, so that the actual contentions are not divorced from their bases. Therefore, considerations regarding public disclosure of contentions should apply to the bases for the contentions as well as the contentions themselves. In the event that only a contention and not its bases is publicly disclosed, both the nonproprietary contention and its proprietary bases must be evaluated together.

Under separate cover, and in accordance with the Board's Protective Order, the State is providing the Board with two 3.5 inch diskettes, one of which contains all proprietary filings relating to Contentions EE and GG, the other contains safeguards filings. The proprietary filings to date are:

1. State of Utah's Request for Consideration of Late-Filed Contentions EE and FF dated December 23, 1997.
2. State of Utah's Request for Consideration of Late-Filed Contention GG, dated January 8, 1998.
3. State of Utah's Reply to the NRC Staff's and Applicant's Responses to State of Utah's Contentions EE and GG, and Notice of Withdrawal of Contentions FF, dated February 11, 1998.

The safeguards filings are Utah Contentions Security-A through Utah Security-I dated January 3, 1998 and the State's Reply, dated February 11, 1998, to the NRC Staff and PFS's responses to those contentions.

In the State's February 11, 1998 reply to the Staff and PFS's responses to Utah Contentions EE and GG the last line on page 32 was inadvertently omitted from the pleading. The State under separate cover now files corrected page 32<sup>1</sup> which replaces page 32 as originally filed.

DATED this 18th day of March, 1998.

Respectfully submitted,



Denise Chancellor  
Fred G Nelson  
Assistant Attorneys General  
Diane Curran  
Connie Nakahara  
Special Assistant Attorneys General  
Attorneys for State of Utah  
Utah Attorney General's Office  
160 East 300 South, 5th Floor  
P.O. Box 140873  
Salt Lake City UT 84114-0873  
Telephone: (801) 366-0286  
Fax: (801) 366-0292

---

<sup>1</sup> After "soil site" corrected page 32 adds the following: conditions and how these factors affect the stability of the casks."

CERTIFICATE OF SERVICE

I hereby certify that a copy of STATE OF UTAH'S RESPONSE TO THE BOARD'S REQUEST FOR INFORMATION REGARDING CONTENTIONS INVOLVING PROPRIETARY AND SAFEGUARDS MATERIAL, was served on the persons listed below by electronic mail (unless otherwise noted) with conforming copies by United States mail first class, this 18th day of March, 1998:

Attn: Docketing & Services Branch  
Secretary of the Commission  
U. S. Nuclear Regulatory Commission  
Mail Stop: O16G15  
11555 Rockville Pike, One White Flint  
North  
Rockville, MD 20852-2738  
(original and two copies)

G. Paul Bollwerk, III, Chairman  
Administrative Judge  
Atomic Safety and Licensing Board  
U. S. Nuclear Regulatory Commission  
Washington, DC 20555  
E-Mail: gpb@nrc.gov

Dr. Jerry R. Kline  
Administrative Judge  
Atomic Safety and Licensing Board  
U. S. Nuclear Regulatory Commission  
Washington, DC 20555  
E-Mail: jrk2@nrc.gov

Dr. Peter S. Lam  
Administrative Judge  
Atomic Safety and Licensing Board  
U. S. Nuclear Regulatory Commission  
Washington, DC 20555  
E-Mail: psl@nrc.gov

Sherwin E. Turk, Esq.  
Catherine L. Marco, Esq.  
Office of the General Counsel  
Mail Stop - 0-15 B18  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555  
E-Mail: set@nrc.gov  
E-Mail: clm@nrc.gov

Jay E. Silberg, Esq.  
Ernest L. Blake, Jr.  
Shaw, Pittman, Potts & Trowbridge  
2300 N Street, N. W.  
Washington, DC 20037-8007  
E-Mail: Jay\_Silberg@shawpittman.com

Clayton J. Parr, Esq.  
Parr, Waddoups, Brown, Gee &  
Loveless  
185 South State Street, Suite 1300  
P. O. Box 11019  
Salt Lake City, Utah 84147-0019  
E-Mail: karenj@pwlaw.com

John Paul Kennedy, Sr., Esq.  
1385 Yale Avenue  
Salt Lake City, Utah 84105  
E-Mail: john@kennedys.org

Jean Belille, Esq.  
Land and Water Fund of the Rockies  
2260 Baseline Road, Suite 200  
Boulder, Colorado 80302  
E-Mail: landwater@lawfund.org


Danny Quintana, Esq.  
Danny Quintana & Associates, P.C.  
50 West Broadway, Fourth Floor  
Salt Lake City, Utah 84101  
E-Mail: quintana@xmission.com

Martin S. Kaufman, Esq.  
Atlantic Legal Foundation  
205 E. 42nd Street  
New York, New York 10017  
E-mail: mskaufman@yahoo.com

Richard Wilson  
Department of Physics  
Harvard University  
Cambridge, Massachusetts 02138  
E-mail: WILSON@HUHEPL.  
HARVARD.EDU

James M. Cutchin  
Atomic Safety and Licensing Board  
Panel  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001  
E-Mail: jmc3@nrc.gov  
(electronic copy only)

Office of the Commission Appellate  
Adjudication  
Mail Stop: 16-G-15 OWFN  
U. S. Nuclear Regulatory Commission  
Washington, DC 20555  
(United States mail, first class only)



Denise Chancellor  
Assistant Attorney General  
State of Utah