

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)

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)

Docket No. 72-22-ISFSI

ASLBP No. 97-732-02-ISFSI

July 7, 1998

STATE OF UTAH'S COMMENTS ON THE BOARD'S
JUNE 29, 1998, SCHEDULING ORDER

In response to the Board's Memorandum and Order (General Schedule for Proceeding and Associated Guidance), dated June 29, 1998, the State of Utah hereby submits the following comments.

1. If the Staff does not meet the deadlines listed in the schedule appended to the Board's June 29 Order, then the deadlines that key off the Staff's deadlines should be extended. For example, the Board's schedule lists the FEIS as due to be issued in September 2000. The end of formal discovery against the Staff is November 1, 2000. If the FEIS issues at the end of September, there may be only 30 days formal discovery against the Staff. The State requests a full 60 days formal discovery against the Staff relating to the FEIS issues.
2. Formal discovery ends against all parties, except the Staff, on all three groups of contentions on March 1, 1999. There is a substantial amount of time, especially on Group III contentions, between the March 1, 1999 discovery cut-off and both the end

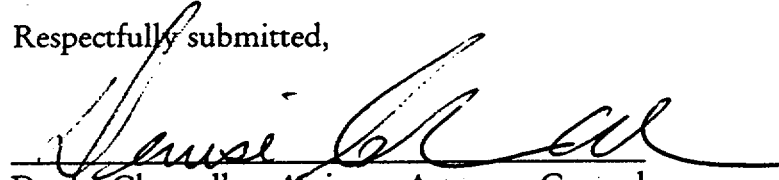
of formal discovery against the Staff and the deadline for filing summary dispositions motions (e.g., 6 months for Group II contentions and 21 months for Group III contentions). Thus, an efficient procedural mechanism should be available to re-open discovery against all parties. For example, discovery may need to be reopened because after formal discovery cut-off, a party may file supplemental discovery answers and this may raise new or follow up questions; the Applicant may file answers to the Staff's Requests for Additional Information, especially with respect to the Environmental Report; or the Applicant may file amendments to the application.

3. There is the potential that some of the deadlines may be too burdensome and unrealistic for the parties to meet because of the convergence of obligations in Groups I, II and III. In some instances this will depend on the number and complexity of summary disposition motions. For example, in December 1999, responses to findings of fact are due in Group I, summary dispositions motions are due in Group II and formal discovery against the Staff on DEIS issues ends. Another example, which does not involve summary disposition motions, is formal discovery against the staff on Group II issues ends June 30, 1999 and pre-filed testimony on Group I issues is due July 1, 1999. If the parties cannot comply with the established deadlines because of overlapping demands, then this should be deemed good cause for obtaining an extension of time. In such an instance, a procedure similar to that established in the Board's September 23, 1997, Order for extension of time, could be used.

4. The Board's shortening of existing periods for discovery provided in the agency's rules of practice to seven days to respond to interrogatories during formal discovery is infeasible. Order at 7. It is not unreasonable to expect that most of the "difficult" questions will be taken up in formal discovery. Furthermore, there will be a need to consult with experts and others before responding to interrogatories. The State requests 14 days to respond to interrogatories, as is provided for in 10 CFR §2.740b.

DATED this 7th day of July, 1998.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that copies of STATE OF UTAH'S COMMENTS ON THE BOARD'S JUNE 29, 1998, SCHEDULING ORDER were served on the persons listed below by electronic mail (unless otherwise noted) with conforming copies by United States mail first class (unless otherwise noted), this 7th day of July, 1998:

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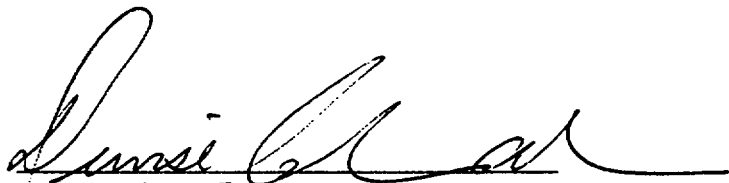
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