

June 3, 1999

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
	)	
PRIVATE FUEL STORAGE, LLC	)	Docket No. 72-22-ISFSI
	)	
(Independent Spent	)	
Fuel Storage Installation)	)	

NRC STAFF'S MOTION FOR EXTENSION OF TIME  
TO FILE RESPONSE TO APPLICANT'S MOTION  
FOR SUMMARY DISPOSITION (CONTENTION H)

Pursuant to 10 C.F.R. § 2.730, the NRC Staff ("Staff") hereby requests a brief extension of time, until June 25, 1999, in which to file its response to "Applicant's Motion for Partial Summary Disposition of Utah Contention H - Inadequate Thermal Design" ("Motion for Partial Summary Disposition"), filed on May 19, 1999. In support of this request, the Staff states as follows:

1. On May 19, 1999, Applicant Private Fuel Storage, L.L.C. ("PFS" or "Applicant") filed its Motion for Partial Summary Disposition. Pursuant to the Licensing Board's "Memorandum and Order (Schedule Regarding Partial Summary Disposition Motion on Contention Utah H)" ("Order") of May 21, 1999, responses to the Applicant's Motion are due to be filed on or before June 8, 1999, and any reply to a response supporting the Motion is due to be filed by June 18, 1999.

2. The Applicant's Motion for Partial Summary Disposition concerns Contention Utah H (Thermal Design). That contention is a "Group II" safety contention, which is scheduled for consideration during the second round of evidentiary hearings to be held in the period of July 31 - September 1, 2000. First-round discovery on this contention remains open, in part,<sup>1</sup> and a second round of limited discovery may be held on this contention in January-February, 2000.<sup>2</sup> Thus, the schedule for evidentiary consideration of Contention H remains open at this time.

3. The Staff has commenced its review of the Applicant's Motion, in preparation for filing a response thereto. At the same time, the Staff is currently engaged in completing its review of ten Group I safety/ security plan contentions and is preparing to file its position on those contentions on June 15, 1999, in accordance with the schedule established by the Licensing Board. In view of the time required to complete these different activities, the Staff has determined that the preparation of a response at this time to the Applicant's Motion for Partial Summary Disposition on Contention H will interfere with its timely filing of its position on Group I contentions.

4. The Staff's filing of its position on Group I contentions on June 15, 1999 is required by the previously established schedule in this proceeding, and is necessary in order to

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<sup>1</sup> The Licensing Board has indicated that it may provide a limited period for additional discovery on Utah Contention H following its ruling on the Applicant's Motion for Partial Summary Disposition, in that (1) the PFS partial summary disposition motion will not be fully briefed until after the initial discovery period relative to contention Utah H is scheduled to close, and (2) a motion has been filed by the State of Utah to compel further discovery responses by the Applicant concerning Contention Utah H (Order at 1-2).

<sup>2</sup> See "Memorandum (Additional E-mail Address for Administrative Judge Kline and Revised General Schedule)," dated May 18, 1999, at Attachment A.

avoid any disruption or delay in that schedule. In contrast, a brief extension of time for the filing of a response to the Applicant's motion for partial summary disposition of Contention H (a Group II contention) will not adversely affect the schedule for litigation of Contention H or any other Group II safety contention. Accordingly, the Staff has determined that it requires a brief extension of the time for filing a response to the Applicant's Motion.

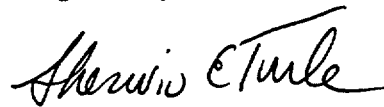
5. In addition, certain other events are likely to adversely affect the Staff's ability to respond to the Applicant's Motion for Partial Summary Disposition while preparing to file its position on Group I contentions. Specifically, the NRC's Office of the General Counsel, including Staff Counsel's office, is scheduled to move to a new location during the period of June 4-7, 1999. This will require the boxing and un-boxing of Staff Counsel's files and working papers, and will make it more difficult for the Staff to render a timely response to the Applicant's Motion during the same period that it is required to file its position on Group I contentions. In addition, Staff Counsel is required to be out of the office on June 17-18, 1999, in a previously scheduled NRC training course. In light of these considerations, the Staff has determined that it will require an additional period of time, until June 25, 1999, in which to respond to the Applicant's Motion.

6. Staff Counsel has contacted Counsel for the Applicant and Counsel for the State of Utah. Neither of those parties objects to the Staff's request for an extension of time in which to respond to the Applicant's Motion, although Counsel for the State requests that the State be afforded a similar extension of time to file its response to the Applicant's Motion. The Staff would not oppose the State's request for a similar extension of time; Counsel for the Applicant has indicated that he would oppose the State's request absent a showing of good cause therefor.

7. The Staff notes that grant of its request will require an adjustment of the time established for filing replies to any response filed in support of the Applicant's Motion. Under the existing schedule, any such reply is currently due to be filed ten days after the filing of a response supporting the Applicant's Motion, *i.e.*, by June 18, 1999.

WHEREFORE, the Staff hereby requests a two-week extension of time, until June 25, 1999, for the filing of its response to the Applicant's Motion for Partial Summary Disposition of Contention Utah H.

Respectfully submitted,

A handwritten signature in cursive script, reading "Sherwin E. Turk".

Sherwin E. Turk  
Counsel for NRC Staff

Dated at Rockville, Maryland  
this 3rd day of June 1999

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S MOTION FOR EXTENSION OF TIME TO FILE RESPONSE TO APPLICANT'S MOTION FOR SUMMARY DISPOSITION (CONTENTION H)" in the above captioned proceeding have been served on the following through deposit in the Nuclear Regulatory Commission's internal mail system, or by deposit in the United States mail, first class, as indicated by an asterisk, with copies by electronic mail as indicated, this 3rd day of June, 1999:

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