

April 30, 1999

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

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 RESPONSE  
TO STAFF'S LETTER OF APRIL 21, 1999**

In accordance with the Atomic Safety and Licensing Board's ("Board") Order of April 23, 1999 (Response Schedules), Private Fuel Storage L.L.C. ("Applicant" or "PFS") files this response to the NRC Staff's letter of April 21, 1999 concerning the projected dates for the completion of the Draft Environmental Impact Statement ("DEIS") and the Final Environmental Impact Statement ("FEIS"). The Applicant believes that the Board need not, and should not, revise at this point in time the schedule for the licensing hearings on the Group III environmental contentions to account for potential slippage in the DEIS and FEIS as projected in the Staff's letter of April 21, 1999. Hearings on the Group III contentions are currently scheduled for April and May 2001, two years from now. In view of the long length of time before actual hearings on

the Group III contentions,<sup>1</sup> there is no need for the Board to revise the schedule now to adjust for potential slippage in the DEIS and the FEIS and the Board should hold in abeyance any such revision.<sup>2</sup>

Counsel for Applicant has discussed this matter with counsel for the other lead parties – the NRC Staff, the State, OGD, and SUWA – and they are in agreement with counsel for Applicant that the Board need not adjust the schedule for the Group III contentions this far in advance of the actual hearing. The State of Utah's position on this matter is stated in full in the following paragraph.

The State of Utah agrees that it may be premature to set a Group III schedule now and it does not object to holding the Group III schedule in abeyance. However, the State emphasizes that it is important to preserve the existing concept of an adequate review time for the Environmental Impact Statement prior to the commencement of discovery in a future revision to the Group III schedule. Under the existing schedule the DEIS was to issue on October 30, 1999 and discovery against the Staff with respect to the DEIS was to

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<sup>1</sup> Further, the limited discovery window for Group III contentions endorsed by the Board in its March 29, 1999 Order (Granting Motion for Additional Limited Discovery on Group II and Group III Contentions) would not occur under the current schedule until September and October 2000, more than 15 months hence.

<sup>2</sup> The Applicant notes that it will continue to provide prompt and complete answers to the Staff's requests for information, and otherwise work with the Staff, in endeavoring to enable the Staff to produce the DEIS and FEIS by dates earlier than those currently projected by the Staff's April 21, 1999 letter. Applicant also notes that the length of time between the DEIS and FEIS as projected in the Staff's April 21, 1999 letter is 11 months and in its initial status report to the Board the Staff had indicated the potential for a shorter time period between the DEIS and the FEIS. See NRC Staff's Status Report and Response to Requests for Hearing and Petitions to Intervene Filed by (1) the State of Utah, (2) Skull Valley Band of Goshute Indians, (3) Ohngo Gaudadeh Devia, and (4) Castle Rock Land and Livestock, L.C., et al., dated October 1, 1997, at page 5.

commence on March 6, 2000. Thus, under the existing schedule there is a four month review period before commencement of a 2 ½ month discovery period. The State requests that when the DEIS and FEIS are issued by the Staff there will be time for the State and its experts to review those documents before the commencement of discovery against the Staff and that the same discovery period against the Staff be preserved. A two month review period for the DEIS, provided there is no unworkable conflict with the Group II schedule, and a one month review for the FEIS, provided there are no significant changes in the FEIS from the DEIS, would be the minimum time required by the State for its review, prior to the commencement of discovery against the Staff.

Neither the Staff nor the Applicant agree with the State's position, set forth in the above paragraph, of the claimed need for review time between the issuance of the DEIS and the FEIS and the commencement of discovery against the Staff in addition to the time allowed for DEIS and FEIS discovery under the schedule. All the parties agree, however, that the Board need not resolve this dispute at this point in time and may hold in abeyance any adjustment to the schedule for the Group III contentions until a later point in time closer to the actual hearing and the related discovery and other prehearing activities for the Group III contentions.

Respectfully submitted,



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Dated: April 30, 1999

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**NUCLEAR REGULATORY COMMISSION**

Before the Commission

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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the Applicant's Response to Staff's Letter of April 21, 1999 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 30th day of April 1999.

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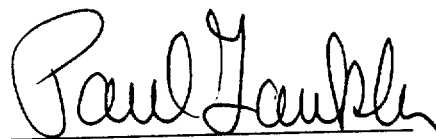
\* By U.S. mail only

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