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OFFICE OF THE SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFFUNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSIONBEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of:

Docket No. 72-22-ISFSI

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

ASLBP No. 97-732-02-ISFSI

November 6, 2001

STATE OF UTAH'S MOTION TO EXTEND DISCOVERY PERIOD ON
CONTENTION UTAH L FOR DEPOSITIONS

The Board has scheduled a discovery window for Contention Utah L, Part B (seismic exemption) from September 17, 2001 until November 16, 2001. During this period, if a motion for summary disposition is filed, it must be done so by November 9, 2001. See Board's General Schedule as revised September 20, 2001.

By agreement, the State and the Applicant have arranged to depose witnesses for Utah L, Part B during the week of October 29th and November 12th. Although the Staff has not supplemented its response to State of Utah's First Set of Discovery Requests Directed to the NRC Staff, General Interrogatory Nos. 3 through 5 (June 10, 1999) to name witnesses and provide other relevant information on each admitted contention, the State has attempted to secure the identification and scope of testimony

¹When NRC Staff is a party to a proceeding, the Executive Director for operation must designate and make available one or more witnesses for deposition. 10 CFR § 2.720(h)(2)(i).

for Staff witness(es) since October 12th¹. On October 23, 2001, counsel for the Staff proffered that it "anticipates" it will name John Stamatakis and also "anticipates" that it may name other witnesses. However, Staff counsel stated that due to his work load, Dr. Stamatakis is "unlikely" available for depositions the last and only available week of the discovery period (November 12th-16th). In a brief discussion yesterday, November 5, 2001, Staff counsel indicated that it hoped to name a panel of three witnesses, including Dr. Stamatakis and two un-named witnesses. Further, Staff counsel has not yet determined a deposition location where the Staff will make its witness panel available. Pending verification of availability, Staff counsel proposed to offer its witnesses on November 19th and 20th, 2001 in either Washington, D.C. or Salt Lake City.

Deposition of Staff witnesses is necessary to a proper decision in this proceeding because, as the record now stands, it is the Staff's rationale in the Safety Evaluation Report ("SER") that supports the grant of an exemption from the duly enacted regulatory standards and the use of a probabilistic approach and a 2,000 year return period earthquake. Moreover, PFS incorporated by reference and adopted the Staff's "bases [in the SER] asserted by the NRC Staff in granting Applicant's requested exemption allowing the use of a probabilistic seismic hazard analysis [] based on a 2,000 year return period earthquake in the seismic design of the PFSF." See Applicant's Objections and Responses to the State of Utah's Eleventh Set of Discovery

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Requests Directed to the Applicant, Response to Interrogatory 15 (October 2, 2001) at 14.

The State hopes it will be able to coordinate a schedule to take depositions of Staff witnesses on or before November 21, 2001.² Therefore, the State requests an extension of the discovery period through November 21, 2001 to allow it sufficient time to depose named Staff witnesses.³ The Staff and PFS do not object to an extension through November 21, 2001. If granted, this extension will not delay the schedule.

DATED this 6th day of November, 2001.

Respectfully submitted,

Denise Chancellor, Assistant Attorney General
Fred G Nelson, Assistant Attorney General
Connie Nakahara, Special Assistant Attorney General
Diane Curran, Special Assistant Attorney General
Laura Lockhart, Assistant Attorney 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

²At this time, Staff counsel has not identified all witnesses or specified the time and location of their availability for depositions.

³Note that if necessary deposition participants are not available the week of November 21st, the State will request an additional extension to take depositions of Staff witnesses.

CERTIFICATE OF SERVICE

I hereby certify that a copy of STATE OF UTAH'S MOTION TO EXTEND
DISCOVERY PERIOD FOR CONTENTION UTAH L was served on the persons
listed below by electronic mail (unless otherwise noted) with conforming copies by

United States mail first class, this 6th day of November, 2001:

Rulemaking & Adjudication Staff
Secretary of the Commission
U. S. Nuclear Regulatory Commission
Washington D.C. 20555
E-mail: hearingdocket@nrc.gov
(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: gp@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
E-Mail: kjerry@erols.com

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
E-Mail: pfscase@nrc.gov

Jay E. Silberg, Esq.
Ernest L. Blake, Jr., Esq.
Paul A. Gaukler, Esq.
Shaw Pittman, LLP
2300 N Street, N. W.
Washington, DC 20037-8007
E-Mail: Jay_Silberg@shawpittman.com
E-Mail: ernest_blake@shawpittman.com
E-Mail: paul_gaukler@shawpittman.com

John Paul Kennedy, Sr., Esq.
David W. Tufts
Durham Jones & Pinegar
111 East Broadway, Suite 900
Salt Lake City, Utah 84111
E-Mail: dtufts@djplaw.com

Joro Walker, Esq.
Land and Water Fund of the Rockies
1473 South 1100 East, Suite F
Salt Lake City, Utah 84105

E-Mail: utah@lawfund.org

Larry EchoHawk
Paul C. EchoHawk
Mark A. EchoHawk
EchoHawk PLLC
140 North 4th Street, Suite 1
P.O. Box 6119
Pocatello, Idaho 83205-6119
E-mail: paul@echohawk.com

Tim Vollmann
3301-R Coors Road N.W. # 302
Albuquerque, NM 87120
E-mail: tvollmann@hotmail.com

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: O14-G-15
U. S. Nuclear Regulatory Commission
Washington, DC 20555

Connie Nakahara
Special Assistant Attorney General
State of Utah