

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

December 27, 2001 (4:33PM)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFFBEFORE THE COMMISSION

In the Matter of:

Docket No. 72-22-ISFSI

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

ASLBP No. 97-732-02-ISFSI

February 7, 2001

STATE OF UTAH'S REQUEST TO THE COMMISSION FOR AN
OPPORTUNITY TO BRIEF THE LICENSING BOARD'S REFERRED
QUESTION TO THE COMMISSION IN LBP-01-37

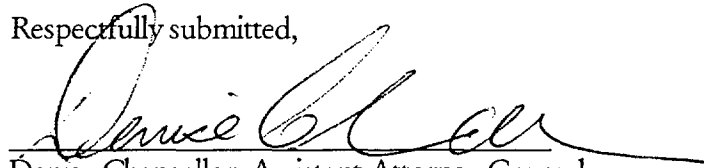
On December 13, 2001 the Licensing Board ruled on the admissibility of Late-Filed Contention Utah RR, Suicide Mission Terrorism and Sabotage. LBP-01-37. For the most part the Board found that the contention met the late filed factors but the Board denied admission of the contention. The Board found that the question of the agency's NEPA responsibilities relating to a September 11, 2001-type event was "a close one." LBP-01-37, slip op at 13. The Board observed that things are not -- and may never be -- the same after September 11 and as the Commission currently is considering regulatory changes in the wake of that fateful day, it referred the matter to the Commission. Id. slip op at 14.

Another licensing board (the MOX Board) ruled in favor of admission of a NEPA contention relating to a September 11, 2001-type event. Duke Cogema Stone & Webster (Savannah River Mixed Oxide Fuel Fabrication Facility), LBP-01-35, 54 NRC ___, ___ (slip op. at 50-55) (Dec. 6, 2001). There is a direct conflict between the PFS and the MOX Licensing Boards. Moreover, the PFS Board's ruling raises the question of the application of

10 C.F.R. § 50.13 and its effect on the admission of Contention Utah RR. The State believes that it would be of assistance to the Commission to brief this matter and, accordingly, requests permission to brief the Commission on the question referred to it in LBP-01-37. If the State is permitted to brief the question, the State would not object to the Staff and the Applicant briefing the question at the same time.

Dated this 21st day of December, 2001.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Denise Chancellor", is written over a horizontal line.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of STATE OF UTAH'S REQUEST TO THE COMMISSION FOR AN OPPORTUNITY TO BRIEF THE LICENSING BOARD'S REFERRED QUESTION TO THE COMMISSION IN LBP-01-37 was served on the persons listed below by electronic mail (unless otherwise noted) with conforming copies by United States mail first class, this 21st day of December, 2001:

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