

October 3, 2002

DOCKETED
USNRC

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

October 8, 2002 (1:29PM)

Before the Commission

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

In the Matter of)	
)	
PRIVATE FUEL STORAGE, L.L.C.)	Docket No. 72-22
)	ASLBP No. 97-732-02-ISFSI
(Private Fuel Storage Facility))	

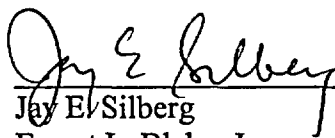
**APPLICANT'S ANSWER OPPOSING
STATE OF UTAH'S MOTION TO ALLOW THREE-PAGE
SUPPLEMENT ON THE MEANING OF 42 U.S.C. § 10155(h)**

On October 2, 2002, the State of Utah filed a "Motion to Allow Three-Page Supplement on the Meaning of 42 U.S.C. §10155(h)." According to the State, the motion was filed five days after one of Utah's lawyers "first had the flash leading to the [supplement]."

The "supplement" is the State's attempt to make a ninth separate filing to the NRC by the State on its legal theory that the Commission lacks the jurisdiction to license the proposed Private Fuel Storage Facility. See "Applicant's Response Opposing Utah's Motion for Reply Briefs And/Or Oral Argument Regarding Utah's Suggestion of Lack of Jurisdiction," dated May 30, 2002 at 1-3 (outlining the seven opportunities that the State had since 1997 to brief these issues to the NRC and the additional opportunities in the now-resolved federal district court litigation). In its June 7, 2002 order, the Commission afforded the State an eighth opportunity, which the State took advantage of. See "Utah's Reply Brief Regarding Utah's Suggestion of Lack of Jurisdiction," dated June 17, 2002.

Enough is enough. The Commission should deny the State's motion.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Jay E. Silberg", is written over a horizontal line.

Jay E. Silberg
Ernest L. Blake, Jr.
Paul A. Gaukler
D. Sean Barnett
SHAW PITTMAN, LLP
2300 N Street, N.W.
Washington, DC 20037

Dated: October 3, 2002

Counsel for Private Fuel Storage L.L.C.

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

Before the Commission

In the Matter of)	
)	
PRIVATE FUEL STORAGE L.L.C.)	Docket No. 72-22
)	
(Private Fuel Storage Facility))	ASLBP No. 97-732-02-ISFSI

CERTIFICATE OF SERVICE

I hereby certify that copies of the "Applicant's Answer Opposing State of Utah's Motion to Allow Three-Page Supplement on the Meaning of 42 U.S.C. § 10155(H)" 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 3rd day of October 2002.

Richard A. Meserve, Chairman
OCM/RAM
U.S. Nuclear Regulatory Commission
One White Flint North
Mail Stop: 16 C1, Room 17 D1
11555 Rockville Pike
Rockville, MD 20852-2738
e-mail: CHAIRMAN@nrc.gov

Greta J. Dicus, Commissioner
U.S. Nuclear Regulatory Commission
Mail Stop: 16 C1, Room 18 H1
One White Flint North
11555 Rockville Pike
Rockville, MD 20852-2738
e-mail: cmrdicus@nrc.gov

Edward McGaffigan, Jr. Commissioner
U.S. Nuclear Regulatory Commission
Mail Stop: 16 C1, Room 18 G1
One White Flint North
11555 Rockville Pike
Rockville, MD 20852-2738
e-mail: cmrmcgaffigan@nrc.gov

Jeffrey S. Merrifield, Commissioner
U.S. Nuclear Regulatory Commission
Mail Stop: 16 C1, Room 18 F1
One White Flint North
11555 Rockville Pike
Rockville, MD 20852-2738
e-mail: cmrmerrifield@nrc.gov

Nils J. Diaz, Commissioner
U.S. Nuclear Regulatory Commission
Mail Stop: 16 C1, Room 18 E1
One White Flint North
11555 Rockville Pike
Rockville, MD 20852-2738
e-mail: cmrdiaz@nrc.gov

Michael C. Farrar, Esq., Chairman
Administrative Judge
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
e-mail: MCF@nrc.gov

Dr. Jerry R. Kline
Administrative Judge
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
e-mail: JRK2@nrc.gov; kjerry@erols.com

Emil L. Julian, Assistant for
Rulemakings and Adjudications
Rulemaking & Adjudication Staff
Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
e-mail: hearingdocket@nrc.gov
(original and two copies)

Sherwin E. Turk, Esq.
Office of the General Counsel
Mail Stop: 15 D21, Room 15 A3
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
e-mail: set@nrc.gov
e-mail: pfscase@nrc.gov

Diane Curran, Esq.
Harmon Curran Spielberg & Eisenberg L.L.P.
1726 M Street, N.W., Suite 600
Washington, D.C. 20036
e-mail: dcurran@harmoncurran.com

Joro Walker, Esq.
Land and Water Fund of the Rockies
1473 South 1100 East
Suite F
Salt Lake City, UT 84105
e-mail: utah@lawfund.org

Dr. Peter S. Lam
Administrative Judge
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
e-mail: PSL@nrc.gov

*Office of the Commission Appellate
Adjudication
Mail Stop: 16 C1, Room 14 G13
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
(United States mail only)

Denise Chancellor, Esq.
Assistant Attorney General
Utah Attorney General's Office
160 East 300 South, 5th Floor
P.O. Box 140873
Salt Lake City, Utah 84114-0873
e-mail: dchancellor@utah.gov

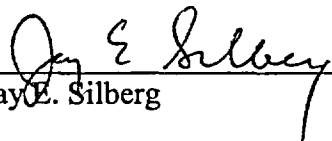
John Paul Kennedy, Sr., Esq.
David W. Tufts, Esq.
Confederated Tribes of the Goshute
Reservation and David Pete
Durham Jones & Pinegar
111 East Broadway, Suite 900
Salt Lake City, Utah 84105
e-mail: dtufts@djplaw.com

Paul EchoHawk, Esq.
Larry EchoHawk, Esq.
Mark EchoHawk, Esq.
EchoHawk PLLC
P.O. Box 6119
Pocatello, ID 83205-6119
e-mail: paul@echohawk.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
(e-mail copy only)

Tim Vollmann, Esq.
Skull Valley Band of Goshute Indians
3301-R Coors Road, N.W.
Suite 302
Albuquerque, NM 87120
e-mail: tvollmann@hotmail.com

* By U.S. mail only


Jay E. Silberg