

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

June 17, 2003 (1:52PM)

BEFORE THE COMMISSIONERSOFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

In the Matter of:

Docket No. 72-22-ISFSI

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

ASLBP No. 97-732-02-ISFSI

June 9, 2003

STATE OF UTAH'S MOTION TO FILE PETITION FOR REVIEW AFTER
BOARD HAS RULED ON APPLICANT'S MOTION FOR RECONSIDERATION
AND
REQUEST TO SUPPLEMENT ITS PETITION ON
PROCEDURAL ISSUES PENDING BEFORE THE BOARD
(CONTENTIONS UTAH E AND UTAH S)

On May 27, 2003 the Bollwerk Licensing Board issued its Partial Initial Decisions on Contention Utah E/Confederated Tribes F (Financial Assurance) and Contention Utah S (Decommissioning), as well as its ruling on Applicant's motion for summary disposition on matters remanded by CLI-00-13.¹ The State requested and was granted leave to petition the Commission by June 30 for review of those decisions, and other issues relating to Contentions Utah E and S. On June 6, 2003 the Applicant filed a motion for reconsideration of the Board's partial initial decision relating to contention Utah E and the Board's summary disposition remand ruling; party responses are due by June 16, 2003. As the Commission ruled earlier in this case, it will delay considering a petition for review until

¹ Partial Initial Decision (Contention Utah E/Confederated Tribes F, Financial Assurance); Partial Initial Decision (Contention Utah S, Decommissioning); and Memorandum and Order (Rulings on Summary Disposition Motion and Other Filings Relating to Remand from CLI-00-13) ("summary disposition remand ruling") (May 27, 2003).

after the Board has ruled on a motion for reconsideration. CLI-01-1, 53 NRC 1, 3 (2001).

Under 10 CFR § 2.786(b)(1), "[w]ithin fifteen (15) days after service of a full or partial initial decision by the presiding officer, and within fifteen (15) days after service of any other decision or action by the presiding officer with respect to which a petition for review is authorized by this part, a party may file for petition for review with the Commission . . ."

PFS's Motion for Reconsideration of the Board's recently issued decisions relates to the wording of the financial assurance license conditions and funding of decommissioning costs. A decision on these issues will affect the way in which the State frames part of its petition for review of contentions Utah E and Utah S.

WHEREFORE, in consideration of the foregoing, the State requests the opportunity to file its petition for review by June 30 or within 10 days of the Board's decision on PFS's motion for reconsideration, whichever is later, under the same conditions as described in the Commission's order of June 4, 2003.

The second issue relates to the Board's determination of what information should be included in the public record and what information, if any, should be withheld as confidential and not available to public scrutiny. Briefing on this matter will be completed by June 30. The Commission in its Order of December 12, 2000 (CLI-00-24, 52 NRC 351) clarified that the State should appeal all issues relating to a specific contention at the one time. However, it is highly unlikely the Board will have ruled on those procedural matters by the petition filing date.

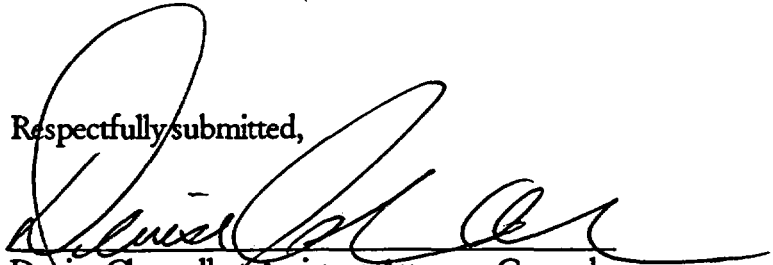
WHEREFORE, the State requests the opportunity to file, within seven days of the Board's ruling, a seven page supplement to its petition on the procedural matters pending

before the Board.

The State has contacted counsel for the Applicant and the Staff, neither of whom oppose the two requests contained in the State's Motion, provided they may file up to a seven page response to any supplemental petition filed by the State.

DATED this 9th day of June, 2003.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a copy of STATE OF UTAH'S MOTION TO FILE PETITION FOR REVIEW AFTER BOARD HAS RULED ON APPLICANT'S MOTION FOR RECONSIDERATION AND REQUEST TO SUPPLEMENT ITS PETITION ON PROCEDURAL ISSUES PENDING BEFORE THE BOARD (CONTENTIONS UTAH E AND UTAH S) was served on the persons listed below by electronic mail (unless otherwise noted) with conforming copies by United States mail first class, this 30th day of May, 2003:

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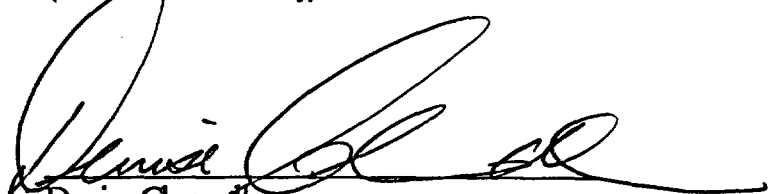
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