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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
USNRC

ATOMIC SAFETY AND LICENSING BOARD

'99 NOV -2 P12:20

Before Administrative Judges:

G. Paul Bollwerk, III, Chairman  
Dr. Jerry R. Kline  
Dr. Peter S. Lam

OFFICE OF THE  
BOARD SECRETARY  
ADMINISTRATIVE JUDGES

SERVED NOV - 2 1999

In the Matter of  
  
PRIVATE FUEL STORAGE, L.L.C.  
  
(Independent Spent Fuel  
Storage Installation)

Docket No. 72-22-ISFSI  
ASLBP No. 97-732-02-ISFSI  
November 2, 1999

MEMORANDUM

(Notice Regarding Issuance of Decision  
on Summary Disposition and Discovery  
Motions Regarding Contention Utah H)

By memorandum and order issued this date, the Licensing Board has ruled on pending partial summary disposition and discovery motions regarding contention Utah H. See LBP-99-42, 50 NRC \_\_\_\_ (Nov. 2, 1999). In that decision, the Board (1) denied a May 19, 1999 partial summary disposition motion filed by applicant Private Fuel Storage, L.L.C., (PFS); (2) directed the parties to take further action relative to the April 30, 1999 motion of intervenor State of Utah (State) to compel discovery regarding that contention; and (3) requested additional information from the parties concerning litigation of this contention and other issues potentially involving the use of proprietary information,

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At present, the Board's decision is being treated as not subject to public release. Accordingly, copies are being provided only to the State, PFS, and the NRC staff.<sup>1</sup> In crafting its decision, however, the Board has attempted to avoid the use of proprietary information not subject to public disclosure in accordance with 10 C.F.R. § 2.790 so that this issuance can be made part of the public record of this proceeding. To confirm there are no problems in this regard, we have requested that these three parties inform the Board in a joint filing to be submitted by Wednesday, November 10, 1999, of their view as to whether any portion of the decision is not subject to public disclosure.

Once the Board has received a response from these parties, it will make a final determination about whether its contention Utah H decision, or portions of that decision, can be made part of the public record of this

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<sup>1</sup> In accordance with the Board's previous orders on dissemination of documents containing proprietary information, the State and PFS are being sent copies of the decision by overnight/express mail while the NRC staff's copy is being served through the agency's internal mail system (or some other method that will provide for delivery within a time frame comparable to that afforded PFS and the State).

proceeding. The parties will be advised of the Board's ruling in this regard.

FOR THE ATOMIC SAFETY  
AND LICENSING BOARD<sup>2</sup>

A handwritten signature in dark ink, appearing to read "G. Paul Bollwerk, III", is written over a horizontal line.

G. Paul Bollwerk, III  
ADMINISTRATIVE JUDGE

Rockville, Maryland

November 2, 1999

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<sup>2</sup> Copies of this memorandum were sent this date by Internet e-mail transmission to counsel for (1) applicant PFS; (2) intervenors Skull Valley Band of Goshute Indians, Ohngo Gaudadeh Devia, Confederated Tribes of the Goshute Reservation, Southern Utah Wilderness Alliance, and the State; and (3) the staff.

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of

PRIVATE FUEL STORAGE, LLC

(Independent Spent Fuel Storage  
Installation)

Docket No.(s) 72-22-ISFSI

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB MEMO (NOTICE RE ISSUANCE..) have been served upon the following persons by U.S. mail, first class, except as otherwise noted and in accordance with the requirements of 10 CFR Sec. 2.712.

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Docket No.(s)72-22-ISFSI  
LB MEMO (NOTICE RE ISSUANCE..)

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Dated at Rockville, Md. this  
2 day of November 1999

  
Office of the Secretary of the Commission