

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

DOCKETED
USNRC

'98--OCT 29 AIO 56

Before Administrative Judges:

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

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

October 29, 1998

SERVED OCT 29 1998

ORDER

(Granting Leave to File Surreply
and Establishing Schedule for Next
Informal Discovery Status Report)

Upon consideration of (1) the October 28, 1998 motion of applicant Private Fuel Storage, L.L.C., (PFS) for leave to file a surreply to the October 26, 1998 reply pleading of intervenor State of Utah (State), including the representations therein regarding the other parties' positions concerning the request to file a surreply and the scope and length of PFS's proposed pleading; and (2) the October 23, 1998 joint status report on informal discovery, it is

ORDERED, that the October 28, 1998 motion of PFS for leave to file a surreply is granted; and it is

FURTHER ORDERED, that the PFS surreply pleading, which shall be filed on or before Friday, October 30, 1998, shall

be no more than five pages in length and shall be limited to the issue of good cause for late filing of the State's Low Rail contentions; and it is

FURTHER ORDERED, that on or before Tuesday, November 24, 1998, the parties shall provide an additional joint report outlining the status of informal discovery. The report should detail the parties' further progress in making document disclosures, including identifying asserted privileged or protected documents, and in exchanging witness lists and conducting informal interviews. In addition, for each admitted contention, the "lead" parties supporting and opposing the contention and the NRC staff should provide a good faith estimate, based on the parties' discovery efforts to date, of (1) how many formal discovery interrogatories and deposition notices the party anticipates submitting (other than draft/final environmental impact statement-related discovery against the NRC staff for Group III issues); and (2) how many privileged/protected documents each party anticipates may be the subject of a motion to compel/motion for protective order.

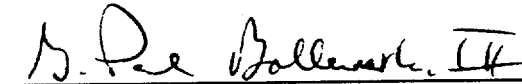
Further, on or before Tuesday, November 24, 1998, counsel for each party should advise the Licensing Board Chairman of any conflicts that would make counsel unavailable for a conference the week of December 14-18, 1998, regarding the status of informal discovery and party

plans for formal discovery. The Board anticipates conducting this conference by telephone, although it would be willing to try to arrange a videoconference if there is substantial support among the parties for using that mode of communication. Counsel may use the joint status report to identify any scheduling conflicts and their preferences regarding the conferencing method.

The filings required or permitted under this order should be served on the Board, the Office of the Secretary, and counsel for the other participants by facsimile transmission, e-mail, or other means that will ensure receipt by midnight ET on the day of filing. See Licensing Board Memorandum and Order (Initial Prehearing Order) (Sept. 23, 1997) at 5-6 (unpublished); Licensing Board Memorandum and Order (Additional Guidance on Service Procedures) (Nov. 19, 1997) (unpublished); Licensing Board Memorandum and Order (Schedule for Telephone Conference and

Directives Regarding Expedited Service) (Sept. 2, 1998)
at 2-3 (unpublished).

FOR THE ATOMIC SAFETY
AND LICENSING BOARD*



G. Paul Bollwerk, III
ADMINISTRATIVE JUDGE

Rockville, Maryland

October 29, 1998

* Copies of this order were sent this date by Internet e-mail transmission to counsel for (1) the applicant PFS; (2) intervenors Skull Valley Band of Goshute Indians, Ohngo Gaudadeh Devia, Confederated Tribes of the Goshute Reservation, Castle Rock Land and Livestock, L.C./Skull Valley Company, LTD., 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 ORDER (GRANTING LEAVE...) 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.

**Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, DC 20555**

**Administrative Judge
G. Paul Bollwerk, III, Chairman
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555**

**Administrative Judge
Jerry R. Kline
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555**

**Administrative Judge
Peter S. Lam
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555**

**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**

**Diane Curran, Esq.
Harmon, Curran, Spielberg & Eisenberg
2001 S Street, N.W., Suite 430
Washington, DC 20009**

**Martin S. Kaufman, Esq.
Atlantic Legal Foundation
205 E. 42nd St.
New York, NY 10017**

**Joro Walker, Esq.
Land and Water Fund of the Rockies
165 South Main, Suite 1
Salt Lake City, UT 84111**

Docket No.(s)72-22-ISFSI
LB ORDER (GRANTING LEAVE...)

Denise Chancellor, Esq.
Assistant Attorney General
Utah Attorney General's Office
160 East 300 South, 5th Floor
P.O. Box 140873
Salt Lake City, UT 84114

Jay E. Silberg, Esq.
Shaw, Pittman, Potts and Trowbridge
2300 N Street, NW
Washington, DC 20037

John Paul Kennedy, Esq.
Confederated Tribes of the Goshute
Reservation and David Pete
1385 Yale Avenue
Salt Lake City, UT 84105

Clayton J. Parr, Esq.
Castle Rock, et al.
Parr, Waddoups, Brown, Gee & Loveless
185 South State Street, Suite 1300
Salt Lake City, UT 84111

Danny Quintana, Esq.
Skull Valley Band of Goshute Indians
Danny Quintana & Assocs., P.C.
50 West Broadway, Fourth Floor
Salt Lake City, UT 84101

Richard Wilson
Department of Physics
Harvard University
Cambridge, MA 02138

Dated at Rockville, Md. this
29 day of October 1998

Adrian T. Byrdson
Office of the Secretary of the Commission