

RAS 2778

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED 02/22/01
SERVED 02/22/01

ATOMIC SAFETY AND LICENSING BOARD

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

February 22, 2001

MEMORANDUM AND ORDER
(General Schedule Revision)

By joint report submitted February 9, 2001, as supplemented on February 15, 2001, the parties to this proceeding provided the Licensing Board with their views on the hearing schedule impacts of the information in the NRC staff's January 23, 2001 letter to the Board. In that letter, the staff declared that because of recent and planned submissions by applicant Private Fuel Storage, L.L.C. (PFS), regarding aircraft crash/cruise missile and geotechnical issues, the staff anticipated postponing the February 28, 2001 date for issuance of the final environmental impact statement (FEIS) for the proposed PFS facility and possibly preparing a Safety Evaluation Report supplement (SSER). In the joint report, the staff acknowledged that, pending its review of the information PFS has indicated it intends to submit, it anticipates the FEIS will be delayed some five months, until July 31, 2001, and that its review of aircraft crash/cruise missile matters would not be completed until approximately April 30, 2001. Thereafter, in the February 15, 2001 supplemental report, the staff indicated it now believes it will be unable to complete its review of aircraft crash/cruise missile matters until June 2001.

Because the evidentiary hearing sessions currently scheduled for July 2001 are to involve the intervenors' aircraft crash/cruise missile, geotechnical, and environmental contentions, it seems apparent that the general schedule for this proceeding, most recently updated on September 5, 2000, will need to be revised. As part of the joint report, PFS and the staff supported holding an evidentiary hearing on contention Utah K/Confederated Tribes B, Inadequate Consideration of Credible Accidents, in late July 2001; however, the joint report supplement now makes it apparent this is not possible. Thus, notwithstanding our previously expressed concerns about "backloading" this proceeding, see Licensing Board Memorandum and Order (General Schedule Revision, Withdrawal of Contentions Utah H and Utah U, and Status of Contention Utah GG) (Sept. 5, 2000) at 2 (unpublished), we accept the parties' recommendation that an evidentiary hearing on the remaining admitted issues be scheduled for November and December 2001, and provide associated changes in affected schedule dates for discovery and other filings.

The general schedule for this proceeding is revised as is reflected in attachment A.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

G. Paul Bollwerk, III
ADMINISTRATIVE JUDGE

Rockville, Maryland

February 22, 2001

* Copies of this memorandum and order 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 of Utah; and (3) the staff.

ATTACHMENT A

PRIVATE FUEL STORAGE PROCEEDING GENERAL SCHEDULE -- As revised 2/22/01

EVENT	GROUPS I-II/A ¹	GROUPS I-II/B ²	GROUP-III ³
Informal Discovery Begins -- All Parties	May 19, 1998	May 19, 1998	May 19, 1998
Informal Discovery Closes -- All Parties	February 28, 1999	February 28, 1999	February 28, 1999
Staff Position on Contentions	December 15, 1999	SER -- September 29, 2000 SSER -- June 30, 2001	DEIS -- June 2000 FEIS -- July 31, 2001
Formal Discovery Begins -- All Parties	March 1, 1999	March 1, 1999	March 1, 1999, except (1) DEIS-related discovery against Staff - August 15, 2000; and (2) FEIS-related discovery against Staff - July 31, 2001
Formal Discovery Ends -- All Parties Except Against Staff (unless otherwise noted)	May 28, 1999, subject to a November 15, 1999 (against Staff - December 15, 1999) - January 31, 2000 limited discovery window	May 28, 1999, subject to limited windows for (1) Utah L depositions (August 15 - September 29, 2000, except through October 30, 2000, for Dr. Arabasz); and (2) discovery against Staff beginning (i) October 25, 2000, and (ii) July 1, 2001 (new Utah K/Confederated Tribes B matters)	May 28, 1999, subject to January 16-March 15, 2001 limited discovery window
Formal Discovery Ends -- Against Staff	February 15, 2000	(2)(i) above - December 11, 2000 (2)(ii) above - July 31, 2001	DEIS -- September 29, 2000 FEIS -- September 7, 2001 (or six weeks after FEIS receipt if prior to July 31, 2001)
Summary Disposition Motions Final Filing Date	February 1, 2000	December 30, 2000	(a) May 25, 2001 (20 pages); (b) June 29, 2001 (15 pages); (c) July 27, 2001 (10 pages)
Summary Disposition Motion Responses Final Filing Date	March 1, 2000	February 9, 2001	(a) June 25, 2001; (b) July 30, 2001; (c) August 27, 2001
Board Summary Disposition Decision	March 31, 2000	April 30, 2001	September 28, 2001
Pre-filed Testimony Submitted	May 15, 2000	October 29, 2001	October 29, 2001
In Limine Motions Due	May 31, 2000	November 12, 2001	November 12, 2001
Hearings (including limited appearance sessions as appropriate)	June 19 - June 30, 2000	November 26 - December 21, 2001	November 26 - December 21, 2001
Findings of Fact (Simultaneous filings)	July 31, 2000	January 25, 2002	January 25, 2002
Findings of Fact Responses (Simultaneous filings)	August 28, 2000	February 22, 2002	February 22, 2002
Initial Decision	October 30, 2000	April 22, 2002	April 22, 2002

¹ The contentions in Groups I-II/A include Utah E/Confederated Tribes F; Utah R; and Utah S.

² The contentions in Groups I-II/B is Utah K/Confederated Tribes B; Utah L.

³ The contentions in Group III include Utah O; Utah T; Utah V; Utah W; Utah Z; Utah AA; Utah DD; OGD O; and SUWA B.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	
PRIVATE FUEL STORAGE, L.L.C.)	Docket No. 72-22-ISFSI
)	
(Independent Spent Fuel Storage)	
Installation))	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB MEMORANDUM AND ORDER (GENERAL SCHEDULE REVISION) have been served upon the following persons by deposit in the U.S. mail, first class, or through NRC internal distribution.

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

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 20555-0001

Administrative Judge
Jerry R. Kline
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
Peter S. Lam
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Sherwin E. Turk, Esquire
Catherine L. Marco, Esquire
Office of the General Counsel
Mail Stop - 0-15 D21
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Diane Curran, Esquire
Harmon, Curran, Spielberg
& Eisenberg, L.L.P.
1726 M Street, NW, Suite 600
Washington, DC 20036

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

Joro Walker, Esquire
Land and Water Fund of the Rockies
2056 East 3300 South, Suite 1
Salt Lake City, UT 84109

Docket No. 72-22-ISFSI
LB MEMORANDUM AND ORDER
(GENERAL SCHEDULE REVISION)

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

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

Richard E. Condit, Esquire
Land and Water Fund of the Rockies
2260 Baseline Road, Suite 200
Boulder, CO 80302

Jay E. Silberg, Esquire
D. Sean Barnett, Esquire
Shaw Pittman
2300 N Street, NW
Washington, DC 20037-1128

Richard Wilson
Department of Physics
Harvard University
Cambridge, MA 02138

Danny Quintana, Esquire
Skull Valley Band of Goshute Indians
Danny Quintana & Associates, P.C.
68 South Main Street, Suite 600
Salt Lake City, UT 84101

[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 22nd day of February 2001