

**RAS 3875**

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
ATOMIC SAFETY AND LICENSING BOARD

**DOCKETED 02/06/02**

Before Administrative Judges:

**SERVED 02/06/02**

Michael C. Farrar, Chairman  
Dr. Jerry R. Kline  
Dr. Peter S. Lam

In the Matter of

PRIVATE FUEL STORAGE, LLC

(Independent Spent Fuel  
Storage Installation)

Docket No. 72-22-ISFSI

ASLBP No. 97-732-02-ISFSI

February 6, 2002

MEMORANDUM

Upon reflection about all the information provided during this morning's conference call between the Licensing Board and most of the parties, the Board is now contemplating not scheduling any hearing sessions or other activities for the week beginning Monday, April 15.

This is based on the following factors:

1. The day on which the site visit is held is flexible, so long as the Skull Valley Band has sufficient advance notice of the precise date.
2. The Tooele limited appearance session will be held on Friday, April 26, to take advantage of the availability of the High School auditorium and the end-of-week timing, which presumably allows more of the public to participate.
3. The parties volunteered that the "Utah DD" peregrine falcon issue was under active settlement discussion.
4. The parties agreed with the Board's suggestion that they attempt to settle the "Utah O" hydrology issue.
5. The State's hydrology witnesses are not available during the period of April 17-19.
6. The parties had previously informed the Board that, as they then saw it, the trial of the "SUWA B" issue should take only between a half day and a full day (Tr. 2732, 2737).<sup>1</sup>

---

<sup>1</sup> Because SUWA's counsel was unable to join in the call, the Board takes this occasion to ask whether counsel can yet predict the number of witnesses each intends to call.

7. If it appears on April 8 that an additional Salt Lake City limited appearance session is advisable, space for a one-day event the week of April 15 can likely be found at that point, or it could be held during the week of April 22 if the falcon and hydrology issues settle.
8. The "Utah K" credible accidents issue should be completed in the 4½ days allocated from Tuesday afternoon, April 9, through Saturday, April 13, with the option of early starts and late finishes.

In the event the any of the parties has concerns about:

(a) the accuracy of the factors listed or the existence of any other factors that should be considered; and/or

(b )the advisability of canceling all activities the week of April 15 and using the week of April 22 for (i) the site visit, (ii) the trial of any of the four environmental and environmental justice issues that may go to hearing, and (iii) the Tooele limited appearances (relying upon the fallback of the week of May 13 for completing any matters left unfinished),

they should advise the Board as early as possible, and no later than noon EST this Friday, February 8, 2002.<sup>2</sup> If the proposal is acceptable, they should also so advise the Board.

FOR THE ATOMIC SAFETY  
AND LICENSING BOARD

*/RA/*

Rockville, Maryland  
February 6, 2002

\_\_\_\_\_  
Michael C. Farrar, Chairman  
ADMINISTRATIVE JUDGE

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, OGD, Confederated Tribes of the Goshute Reservation, Southern Utah Wilderness Alliance, and the State of Utah; and (3) the NRC Staff.

---

<sup>2</sup> For the parties' information, the contract for the April 15<sup>th</sup> week of space must be signed in the very near future or the space will be lost. Once signed, an unusually high cancellation fee would be incurred.

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 DATED FEBRUARY 6, 2002 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

Joro Walker, Esquire  
Director, Utah Office  
Land and Water Fund of the Rockies  
1473 South 1100 East, Suite F  
Salt Lake City, UT 84105

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

Docket No. 72-22-ISFSI  
LB MEMORANDUM DATED FEBRUARY 6, 2002

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

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

John Paul Kennedy, Sr., Esquire  
David W. Tufts, Esquire  
Confederated Tribes of the Goshute  
Reservation and David Pete  
Durham Jones & Pinegar  
111 East Broadway, Suite 900  
Salt Lake City, UT 84105

Richard Wilson  
Department of Physics  
Harvard University  
Cambridge, MA 02138

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

Tim Vollmann, Esquire  
3301-R Coors Road N.W., #302  
Albuquerque, NM 87120

Paul C. EchoHawk, Esquire  
ECHOHAWK LAW OFFICES  
151 North 4th Avenue, Suite A  
P.O. Box 6119  
Pocatello, ID 83205-6119

Marlinda Moon, Chairman  
Sammy Blackbear, Sr., Vice-Chairman  
Miranda Wash, Secretary  
Skull Valley Band of Goshute Indians  
P.O. Box 511132  
Salt Lake City, UT 84151-1132

[Original signed by Adria T. Byrdsong]

---

Office of the Secretary of the Commission

Dated at Rockville, Maryland,  
this 6<sup>th</sup> day of February 2002