

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSIONBEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

JOINT COMMENTS IN RESPONSE
TO THE LICENSING BOARD'S
MEMORANDUM OF FEBRUARY 6, 2002

On February 6, 2002, the Atomic Safety and Licensing Board issued a "Memorandum" concerning the telephone conference call which had been held by the Licensing Board and parties earlier that day. In its Memorandum, the Licensing Board informed the parties that it was reconsidering the need to schedule hearings during the week of April 15, 2002, and it invited the parties to submit any comments they may have concerning this matter (*Id.* at 2). In accordance with the Licensing Board's Memorandum, the NRC Staff ("Staff"), Private Fuel Storage, L.L.C. ("PFS" or "Applicant"), the Skull Valley Band of Goshute Indians ("Skull Valley Band"), and Southern Utah Wilderness Alliance ("SUWA") hereby file this joint report setting forth their comments on this matter.¹

DISCUSSION

1. As discussed in the prehearing telephone conference held on January 17, 2002, PFS, the Staff and the State currently anticipate that hearings on aircraft crash issues (Contention

¹ The State of Utah ("State") reviewed this document prior to filing, but neither joins in nor opposes the views expressed herein; further, the State advises that it takes no position with respect to whether hearings should be held during the week of April 15, 2002. Counsel for Ohngo Gaudadeh Devia ("OGD") did not state a position with respect to the views expressed herein.

Utah K/Confederated Tribes B) will be concluded during the one-week period of April 9-13, 2002, and that hearings on geotechnical issues (Contention Utah L/QQ) will be concluded during the two-week period of April 29 - May 10, 2002. The parties hope that the peregrine falcon issue (Contention Utah DD (species)) can be resolved by stipulation and need not proceed to hearing. If Contention Utah DD is not settled, however, the parties estimate that it would require approximately ½ day of hearings.

2. In light of the above, the parties estimate that the following amount of time will be required for hearing on the environmental contentions that remain for hearing:

- | | | |
|----|--|----------------------------|
| a. | Contention Utah O (Hydrology) | 1 to 1 ½ days |
| b. | Contention SUWA B (Rail Corridor Alternatives) | 1 to 1 ½ days ² |
| c. | Contention OGD O (Environmental Justice) | 0 to 5 days (unknown) |

TOTAL: 2 to 8 days

In addition, approximately ½ day will be required for a tour of the site and local area, and ½ day will be required for limited appearance statements in Tooele, Utah. Thus, a total of 3 to 9 days will be required for environmental hearings and other activities, apart from hearings on Contentions Utah K and Utah L/QQ.³

3. The parties are unable to provide a better estimate of the time required to conclude the environmental hearings, prior to issuance of the Licensing Board's ruling on the Applicant's motion for summary disposition of Contention OGD O. In the event the Licensing Board grants that

² This estimate for the time required to hear Contention SUWA B is somewhat larger than the one-half to one day estimate reflected in the transcript of the previous telephone prehearing conference (Tr. 2732, 2737), which the Licensing Board cited in its Memorandum, at 2. See also Tr. 2736 (1 day to 1 ½ day estimate). With respect to this contention, the Applicant currently expects to present three witnesses; the Staff expects to present 3 or 4 witnesses; and SUWA expects to present one witness.

³ The Skull Valley Band advises that it is unavailable for a site tour on April 25 or 26. As a result, any site tour would have to be scheduled for a different day.

motion, only one week of time would appear to be necessary to conclude the matters discussed in paragraphs 2-3 above. On the other hand, if the Licensing Board denies the motion for summary disposition, more than one week would be required to conclude those activities.⁴

4. Accordingly, the parties believe that a decision as to whether to schedule hearings during the entire two-week period of April 15-26 should be deferred, pending issuance of the Board's decision on the Applicant's motion for summary disposition of Contention OGD O. Further, in the event that the Licensing Board grants that motion, the parties believe that hearings need not be held during the week of April 15, and that all the activities listed in paragraphs 2 and 3 above could be held during the week of April 22, 2002 (with any unfinished matters to be completed during the week of May 13).

Respectfully submitted,

/RA/

Sherwin E. Turk
Counsel for NRC Staff

Dated at Rockville, Maryland
this 8th day of February 2002

⁴ Certain schedule conflicts will require consideration in scheduling the hearings on environmental contentions: (a) two of the Staff's potential witnesses on Contention OGD O, if needed, are unavailable during the week of May 13, 2002, and one witness may be unavailable during the week of April 15; (b) SUWA is unable to attend hearings on Contention SUWA B during the week of May 13; and (c) the State's witness for Contention Utah O is unavailable for hearings during the period of April 17-19. The parties will coordinate the scheduling of witnesses on these contentions after the Licensing Board rules on the pending motion for summary disposition.

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CERTIFICATE OF SERVICE

I hereby certify that copies of "JOINT COMMENTS IN RESPONSE TO THE LICENSING BOARD'S MEMORANDUM OF FEBRUARY 6, 2002" in the above captioned proceeding have been served on the following through deposit in the NRC's internal mail system, with copies by electronic mail, as indicated by an asterisk, or by deposit in the U.S. Postal Service, as indicated by double asterisk, with copies by electronic mail this 8th day of February, 2002:

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/RA/

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