

RAS 6281

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

March 31, 2003

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OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

In the Matter of )

PRIVATE FUEL STORAGE L.L.C. )

(Private Fuel Storage Facility) )

Docket No. 72-22-ISFSI

ASLBP No. 97-732-02-ISFSI

**JOINT REPORT**  
**ON "CONSEQUENCES" PROCEEDINGS**

In its Partial Initial Decision (Regarding Credible Accidents), LBP-03-04, 57 N.R.C. \_\_\_\_ (March 10, 2003), the Atomic Safety and Licensing Board ("Board") ruled that "[f]or now" the Private Fuel Storage Facility could not be licensed. LPB-03-04, slip op. at 3. The Board reached this conclusion based upon its determination that the likelihood of an F-16 crash into the facility was sufficiently high that such an accident must be deemed "credible." Id. at 2.

In addition to referring its Partial Initial Decision to the Commission for immediate review, id. at 90, 219, and providing for the filing of petitions for review pursuant to 10 C.F.R. § 2.786, id. at 220, the Board established a parallel route for Applicant Private Fuel Storage, L.L.C. ("the Applicant" or "PFS") to alleviate the Board's concern on probability of an F-16 crash. That option would allow PFS "to establish that the contemplated (or upgraded) design of the proposed facility's spent fuel storage casks is so robust that an F-16 crash would not have appreciable health and safety consequences." Id. at 3.<sup>1</sup>

The Board recognized that what it labeled the "consequences presentation" id. at 88, in turn would have two possible components. The first component would be a dem-

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<sup>1</sup> The Board actually identified two options. The other option, which it discounted as "relatively unlikely," was "for the Applicant to convince the Air Force to agree to reduce the number, and/or to alter the pattern, of Skull Valley overflights. Id. at 2-3.

onstration that "an F-16 would not penetrate a cask"; the second component would be that "even if it did, there would be no significant radiation impact for the public." Id. at 79.

This Report outlines the positions of the parties with respect to further proceedings on the consequences issue.

1. PFS' Position

PFS intends to exercise the "option" made available for a "consequences presentation." Id. at 88. PFS plans to introduce at that proceeding evidence demonstrating the consequences of a postulated F-16 crash into the Private Fuel Storage Facility. This testimony would be based upon additional technical analysis which PFS intends to undertake, and may possibly include the consequences testimony offered (but not admitted) at last year's evidentiary hearings. See Testimony of Jeffrey Johns on Aircraft Crash Hazards at the PFSF (February 19, 2002) at 2-5.

PFS regards the matters raised by the State (as set forth below) to be premature at this time.

2. NRC Staff Position

The NRC Staff recognizes PFS' intention to move forward with a "consequences presentation." Accordingly, consistent with its regulatory responsibilities, the Staff intends to participate in further proceedings regarding the consequences of an F-16 crash into the PFS facility.

The Staff regards the matters raised by the State to be premature at this time.

3. State of Utah Position

The issue of consequences is not now before the Board. LBP-03-04, slip op. at 3 ("that matter is not now before us .... If the Applicant were to rehabilitate its application by addressing that issue fully, this matter might eventually come before us again, this time with the benefit of Staff analysis.")

In the event PFS wishes to pursue the issue of consequences, the Board has identified the following sequence:

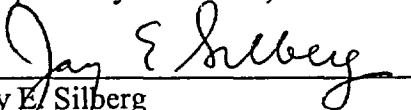
- assembling a license application amendment (id. at 88 and n. 130);
- undergoing Staff review (id.);
- participation by the State (id. at 88 and n. 131), such as filing a contention;
- Staff analysis (id. at 3), such as Staff acceptance of PFS's consequence analysis and revision of the Staff's Safety Evaluation Report; and
- prehearing and hearing proceedings before the Board (id. at 88).

The State is unable to suggest anything more definite at this time because the State's future actions will be dependent on the timing and substance of PFS's license application amendment.

4. Schedule

Because the parties cannot as yet provide firm estimates as to when technical analyses will be completed, it is not yet possible to propose a schedule for the consequences proceeding. The parties believe that they will have better information on schedules in the weeks ahead. Therefore, the parties propose to submit a supplemental report to the Board by April 30, 2003. By that time, the parties hope to have a more precise estimate as to when technical analyses would be completed. This should in turn allow the parties to propose a schedule for the remainder of the consequences proceeding. In the event that the parties should not be able to agree on schedule issues, one or more of the parties would promptly bring the matter to the Board's attention.

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the Joint Report on "Consequences" Proceedings were served on the persons listed below (unless otherwise noted) by e-mail with conforming copies by U.S. mail, first class, postage prepaid, this 31st day of March, 2003.

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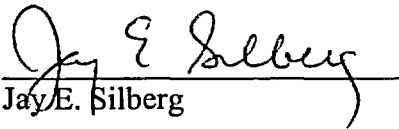
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