

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

May 27, 2003

MEMORANDUM(Notice Regarding Issuances Concerning Contentions
Utah E/Confederated Tribes F and Contention Utah S)

In three decisions this date, the Licensing Board has made rulings regarding contention Utah E/Confederated Tribes F, Financial Assurance, and contention Utah S, Decommissioning. In those decisions, the Board (1) granted the December 4, 2000 motion for summary disposition of applicant Private Fuel Storage, L.L.C., (PFS) and denied the motion of intervenor State of Utah (State) to reopen the evidentiary hearing record regarding contention Utah E/Confederated Tribes F in connection with the Commission's action in CLI-00-13, 52 NRC 23 (2000), directing the Board to require PFS to produce a sample service contract outlining PFS agreements with its customers relative to the services it would provide, and compensating payments it would receive, in connection with its proposed Skull Valley, Utah independent spent fuel storage installation (ISFSI); (2) based on the record developed by PFS, the State, and the NRC staff parties during the June 2000 evidentiary hearing sessions, found that the preponderance of the evidence established, relative to the challenges to the adequacy of PFS construction, operation, and decommissioning cost estimates regarding its Skull Valley

facility posed in contentions Utah E/Confederated Tribes F and contention Utah S, that in accordance with 10 C.F.R. § 72.22(e) reasonable assurance exists that PFS is financially qualified to construct, operate, and decommission its proposed facility.

At present, the Board's decisions are being treated as not subject to public release. Accordingly, copies are being provided only to the State, PFS, and the NRC staff.¹ In crafting its decisions, however, the Board has attempted to minimize the use of proprietary information not subject to public disclosure in accordance with 10 C.F.R. § 2.790 so that its issuances, in substantial part, can be placed in the public record of this proceeding. In this regard, we have requested that these three parties inform the Board in a joint filing to be submitted by Friday, June 20, 2003, of their views as to which portions of the decision, if any, are not subject to public disclosure.

Once the Board has received responses from these parties, which are due on Monday, June 30, 2003, it will make a final determination about whether its contention Utah E/Confederated Tribe F decision, or portions of that decision, can be made part of the

¹ In accordance with the Board's orders on dissemination of documents containing proprietary information, PFS, the State, and the staff are being sent copies of the decisions by internet e-mail.

public record of this proceeding.² The parties will be advised of the Board's ruling in this regard.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD³

/RA/

G. Paul Bollwerk, III
ADMINISTRATIVE JUDGE

Rockville, Maryland

May 27, 2003

² In addition, pending before the Board are party pleadings regarding the disclosure of portions of the hearing transcripts, prefiled testimony, and exhibits from the June 2000 evidentiary hearing and a motion to adopt joint transcript corrections. It would be the Board's intention to rule upon those at the same time it makes a determination about public disclosure of all or parts of the three decisions issued today.

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

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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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 (NOTICE REGARDING ISSUANCES CONCERNING CONTENTIONS UTAH E/CONFEDERATED TRIBES F AND CONTENTION UTAH S) 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. 42nd St.
New York, NY 10017

Docket No. 72-22-ISFSI
LB MEMORANDUM (NOTICE REGARDING ISSUANCES
CONCERNING CONTENTIONS UTAH E/CONFEDERATED
TRIBES F AND CONTENTION UTAH S)

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

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

Stephen L. Simpson, Esquire
Office of the Solicitor
Department of the Interior
Division of Indian Affairs
1849 C Street, NW, Mailstop 6456-MIB
Washington, DC 20240

[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 27th day of May 2003