

**RAS 7531**

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

**DOCKETED 03/31/04**

**SERVED 03/31/04**

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

March 31, 2004

MEMORANDUM

(Notice Regarding Issuance of Decision Concerning  
Disclosure/Redaction of Evidentiary and Decisional Materials Relating  
to Contentions Utah E/Confederated Tribes F and Utah S;  
Adopting Transcript Corrections Relating to  
Contentions Utah E/Confederated Tribes F and Utah S)

In a decision this date, the Licensing Board has made rulings on which portions of the evidentiary and decisional materials relative to contention Utah E/Confederated Tribes F, Financial Assurance, and contention Utah S, Decommissioning, that previously have been treated as not subject to public release can be placed in the public record.<sup>1</sup> In its decision today, the Board finds sufficient justification to redact in part and disclose in part portions of the

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<sup>1</sup> Evidentiary materials include the hearing transcript, exhibits, and the parties' pre-filed testimony. Decisional materials include earlier issuances relating to contentions Utah E/Confederated Tribes F, Financial Assurance, and contention Utah S, Decommissioning, including Licensing Board Memorandum and Order (Rulings on Summary Disposition Motion and Other Filings Relating to Remand from CLI-00-13 (May 27, 2003) (unpublished pending review of proprietary information); Partial Initial Decision (Contention Utah E/Confederated Tribes F, Financial Assurance) (May 27, 2003) (unpublished pending review of proprietary information); Partial Initial Decision (Contention Utah S, Decommissioning) (May 27, 2003) (unpublished pending review of proprietary information); and Licensing Board Memorandum and Order (Granting in Part and Denying in Part Motion for Reconsideration and/or Clarification of Financial Qualifications Decisions) (Jan. 5, 2004) (unpublished pending review of proprietary information).

evidentiary and decisional materials at issue as proprietary information. Additionally, the Board adopts the parties' proposed transcript corrections for the June 2000 evidentiary sessions relating to financial assurance matters, some portions of which include proprietary information.

The Board's decision is being treated as not subject to public release. Accordingly, copies are being provided only to applicant Private Fuel Storage, L.L.C. (PFS), intervenor State of Utah (State), and the NRC staff.<sup>2</sup>

The Board will delay release of any of the evidentiary or decisional materials encompassed by its decision for seven days, or until April 7, 2004, to provide the parties time to file a motion with the Board seeking a stay of the release of any otherwise purported confidential information pending an attempt to seek Commission review of the Board's decision. If such a motion is filed, the Board will not release any of the evidentiary or decisional materials pending its disposition of that stay motion.

FOR THE ATOMIC SAFETY  
AND LICENSING BOARD<sup>3</sup>

*/RA/*

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G. Paul Bollwerk, III  
ADMINISTRATIVE JUDGE

Rockville, Maryland

March 31, 2004

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<sup>2</sup> 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.

<sup>3</sup> 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; and (3) the staff.

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB MEMORANDUM (NOTICE REGARDING ISSUANCE OF DECISION CONCERNING DISCLOSURE/REDACTION OF EVIDENTIARY AND DECISIONAL MATERIALS RELATING TO CONTENTIONS UTAH E/CONFEDERATED TRIBES F AND UTAH S; ADOPTING TRANSCRIPT CORRECTIONS RELATING TO CONTENTIONS UTAH E/CONFEDERATED TRIBES F AND UTAH S) have been served upon the following persons by deposit in the U.S. mail, first class, or through NRC internal distribution.

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Washington, DC 20555-0001

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AND UTAH S; ADOPTING TRANSCRIPT CORRECTIONS  
RELATING TO CONTENTIONS UTAH E/CONFEDERATED  
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[Original signed by Evangeline S. Ngbea]

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Office of the Secretary of the Commission

Dated at Rockville, Maryland,  
this 31<sup>st</sup> day of March 2004