



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

June 26, 2015

The Honorable John Shimkus
Chairman, Subcommittee on Environment and
the Economy
Committee on Energy and Commerce
United States House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

The U.S. Nuclear Regulatory Commission appeared before the Subcommittee on Environment and the Economy on May 15, 2015. Following that hearing, you forwarded questions for the hearing record. The responses to those questions are enclosed. If I can be of further assistance, please do not hesitate to contact me at (301) 415-1776.

Sincerely,

A handwritten signature in black ink, which appears to read "Eugene Dacus, for".

Eugene Dacus, Director
Office of Congressional Affairs

Enclosure:
(As stated)

cc: Representative Paul Tonko

The Honorable John Shimkus

QUESTION 1.

Recently, multiple private companies have announced their intention to pursue an NRC license to serve as a consolidated interim storage site for high-level radioactive waste and commercial spent nuclear fuel. However, we have experience trying to license and operate one of these facilities. Private Fuel Storage, a private company, pursued a storage facility in partnership with an Indian tribe in Utah, but was doomed due to opposition from powerful political forces.

a) Please describe the PFS experience, including NRC's actions on the license.

ANSWER.

The Private Fuel Storage (PFS) Independent Spent Fuel Storage Installation (ISFSI) application was a first-of-a-kind application and review for the NRC. The State of Utah and others intervened in the proceeding, and numerous issues for hearing (or "contentions") were adjudicated by the Atomic Safety and Licensing Board Panel. The hearing process took a total of seven years, some of which overlapped with the safety review. There were numerous factors that contributed to the length of the hearing process, e.g., the cask system selected by the applicant was not certified at the time the application was submitted; during the application review process the applicant submitted multiple amendments to its application; revisions to the application prompted new hearing rights and, subsequently, new contentions; additional requests for information were required in order to clarify portions of the revised application; and

adjudication of late-filed contentions. As a result of these factors, the application review took nine years, at a cost of approximately \$9 million, which included 35 Full Time Equivalents (FTE).

The Commission issued the license to PFS in February 2006. PFS has been unable to construct and operate an ISFSI due to its inability to secure two required approvals from the U.S. Department of the Interior (DOI). The first is a permit to construct a railroad on a right of way through land managed by DOI's Bureau of Land Management; and the second is final approval by DOI's Bureau of Indian Affairs for a proposed lease of tribal lands owned by a Native American Tribe (the Skull Valley Band of Goshute Indians).

b) What did NRC learn from this experience?

ANSWER.

The PFS experience illustrates potential impacts that application quality and an adjudicatory proceeding can have on a licensing schedule. As noted in answer 1.a, PFS was a first-of-a-kind application, and during the review process the applicant submitted multiple revisions to its application, and the NRC staff had several rounds of requests for additional information. In addition, the State of Utah and others strongly opposed the PFS project.

The NRC has recognized the importance of an application that includes sufficient, high-quality information to allow completion of a timely review, as well as the benefits of holding public meetings near the proposed facility site to enhance communication with stakeholders. If there is State, regional, and local support for a project, this can help expedite the licensing proceeding. In addition, since the PFS experience, the NRC has revised its adjudicatory procedural rules so that they are more efficient than the rules in place at the time of the PFS proceeding. Finally, following PFS, the NRC improved its internal review processes in an effort to provide for better internal coordination and to improve the effectiveness and efficiency of the review process.

c) Please describe the process for and timeline that is reasonably expected if another private company applies for an NRC license.

ANSWER.

The NRC staff is available to answer questions about its licensing process through public pre-application meetings with prospective applicants. These meetings are scheduled at the prospective applicant's request. Upon receipt of an application, the NRC staff first does an acceptance review to make sure the application contains sufficient information to complete the safety, environmental, and security reviews. A notice of docketing, notice of proposed action, and opportunity for a hearing is published in the *Federal Register*, and interested persons are able to submit hearing requests and intervention petitions. Notices associated with the staff's environmental evaluation are also published. If the application is accepted for review, the NRC staff begins the safety, environmental, and security reviews of the application to determine whether it meets applicable requirements for spent fuel storage, following the NRC guidance in the "Standard Review Plan for Spent Fuel Dry Storage Facilities." If the NRC determines that all pertinent regulations are satisfied, a license is issued.

Based on lessons learned from the PFS license issued in 2006, the NRC estimates that its safety, security, and environmental reviews will take approximately three years (not including any hearings that may be required). That timeframe depends on the quality of the application. As described above, there is an opportunity for a hearing as part of our licensing process.

While the NRC cannot predict how many parties will seek a hearing, how many issues will be admitted for hearing, or how long the hearing process will take, there will be some overlap of the adjudicatory process with the staff's review of the application. Upon receipt of an application, NRC staff are ready to commence review of the application and conduct a hearing, if applicable, as efficiently as possible.

d) What sort of responsibilities would be required of the Federal government?

ANSWER.

As the independent regulator of civilian uses of nuclear materials, the NRC is responsible for the safety, environmental, and security license reviews and oversight to ensure the applicable requirements are satisfied. The NRC's license review determines if the proposed facility meets all the agency's applicable regulatory requirements. The NRC's ongoing oversight ensures that the facility operates in accordance with the NRC's regulations. Actions by other agencies may be required.

e) Who would be required to pay for the costs to acquire a license?

ANSWER.

The applicant would be required to pay for the cost associated with the licensing review.