

21189

DOCKETED
USNRC

January 24, 2000
'00 FEB -1 P5:08

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
Before the Atomic Safety and Licensing Board

OFFICE OF SECRETARY
PUBLIC AFFAIRS
ADJUDICATION STAFF

In the Matter of)
)
PRIVATE FUEL STORAGE L.L.C.) Docket No. 72-22
)
(Private Fuel Storage Facility)) ASLBP No. 97-732-02-ISFSI

**JOINT REQUEST FOR MODIFICATION OF
DISCOVERY SCHEDULE FOR DEPOSITIONS**

Due to the identification of new witnesses for Contention Utah Security C and the unavailability of a witness for Contention Utah H, Private Fuel Storage ("PFS") and the State of Utah ("State") jointly request the Board to modify the existing schedule for discovery as set forth below. Further, PFS and the State formally request the deferral of the depositions with respect to Utah E, L, and GG as summarized under point 2 in the letter from the NRC Staff to the Board of January 20, 2000.

Specifically, for Contention Utah Security C, PFS and the State request the Board's leave to depose two newly identified witnesses. Since the completion of Group I discovery in Spring 1999, PFS on January 14, 2000 identified Frank Scharmann, Tooele County Sheriff, and the State on October 25, 1999 identified Roy Mackay, Utah Highway Patrol, as witnesses for Contention Utah Security C. PFS and the State have mutually agreed to the deposition of each other's newly identified witness and therefore, in accordance with the Board's Memorandum and Order of September 20, 1999, request to

DSO 3

the Board's permission to do so. PFS and the State are in the process of scheduling the depositions of these two witnesses within the next few weeks and will file a notice of deposition upon setting of the dates.

PFS and the State also request the Board to modify the discovery period for Group II Contentions to allow the scheduling of depositions concerning Contention Utah H for the week of February 21, 2000. PFS and the State had originally contemplated and preliminarily scheduled the depositions of two of PFS's witnesses for Utah H, Dr. Kris Singh and Dr. Indresh Rampall, and of the State's witnesses for Utah H, Dr. Marvin Resnikoff and Matthew R. Lamb (who will shortly be added to the State's witness list for Utah H) for the last week of January. However, due to the unavailability of Dr. Rampall, and the parties' mutual agreement that it is most efficient to depose all the deponents at the same setting, PFS and the State have agreed to reschedule the depositions for the week of February 21, with the exact date and time to be set. Accordingly, PFS and the State request leave of the Board to conduct the above Utah H depositions the week of February 21, 2000.¹

Further, in view of the outstanding motions for summary disposition on Contentions Utah E (financial assurance) and Utah GG (TranStor Cask Stability), Counsel for the State and PFS believe that it would be most efficient if depositions with respect to both Utah E and Utah GG were deferred until the Board rules on the pending

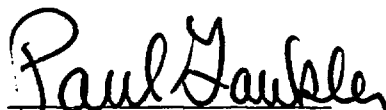
¹ The Applicant does not intend to file a motion for summary disposition with respect to Utah H (nor on any of the other safety contentions on which the Staff has to date taken a position, Utah R, Utah S, and Security Contention C, other than those on which it has already filed such motions, Utah E and Utah GG). Therefore, the deferral of the depositions for Utah H will not affect the remainder of the schedule for litigating the contention.

motions for summary disposition. Upon the Board's rulings, the parties would undertake to schedule and conduct depositions as appropriate based on the Board's decisions.

Further, based on the Staff's report that Utah L will not be ready for hearing in June, the parties also request the Board to defer Utah L depositions pending development of a new schedule for litigating Utah L. The deferral of deposition discovery for Utah L is also appropriate in that the State will shortly be amending Utah L which could significantly change the focus of deposition discovery conducted with respect to a major part of Utah L.

Therefore, PFS and the State request the Board's modification of the discovery schedule to allow depositions as set forth above. Counsel for Applicant has called Counsel for the NRC Staff who has stated that he has no objection to the above requests.

Respectfully submitted,



Jay E. Silberg

Ernest L. Blake, Jr.

Paul A. Gaukler

SHAW PITTMAN

2300 N Street, N.W.

Washington, DC 20037

(202) 663-8000

Counsel for Private Fuel Storage L.L.C.

Dated: January 24, 2000

DOCKETED
USNRC

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

'00 FEB -1 P5:08

Before the Atomic Safety and Licensing Board

OFFICE OF SECRETARY
RULEMAKING AND
ADJUDICATIONS STAFF

In the Matter of)
)
PRIVATE FUEL STORAGE L.L.C.) Docket No. 72-22
)
(Private Fuel Storage Facility)) ASLBP No. 97-732-02-ISFSI

CERTIFICATE OF SERVICE

I hereby certify that copies of the "Joint Request for Modification of Discovery Schedule for Depositions" 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 24th day of January 2000.

G. Paul Bollwerk III, Esq., Chairman
Administrative Judge
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
e-mail: GPB@nrc.gov

Dr. Jerry R. Kline
Administrative Judge
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
e-mail: JRK2@nrc.gov; kjerry@erols.com

Dr. Peter S. Lam
Administrative Judge
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
e-mail: PSL@nrc.gov

* Susan F. Shankman
Deputy Director, Licensing & Inspection
Directorate, Spent Fuel Project Office
Office of Nuclear Material Safety &
Safeguards
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
Attention: Rulemakings and Adjudications
Staff
e-mail: hearingdocket@nrc.gov
(Original and two copies)

* Adjudicatory File
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Catherine L. Marco, Esq.
Sherwin E. Turk, Esq.
Office of the General Counsel
Mail Stop O-15 B18
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
e-mail: pfscase@nrc.gov

John Paul Kennedy, Sr., Esq.
Confederated Tribes of the Goshute
Reservation and David Pete
1385 Yale Avenue
Salt Lake City, Utah 84105
e-mail: john@kennedys.org

Diane Curran, Esq.
Harmon, Curran, Spielberg &
Eisenberg, L.L.P.
1726 M Street, N.W., Suite 600
Washington, D.C. 20036
e-mail: DCurran.HCSE@zzapp.org

*Richard E. Condit, Esq.
Land and Water Fund of the Rockies
2260 Baseline Road, Suite 200
Boulder, CO 80302

* By U.S. mail only

Denise Chancellor, Esq.
Assistant Attorney General
Utah Attorney General's Office
160 East 300 South, 5th Floor
P.O. Box 140873
Salt Lake City, Utah 84114-0873
e-mail: dchancel@state.UT.US

Joro Walker, Esq.
Land and Water Fund of the Rockies
2056 East 3300 South, Suite 1
Salt Lake City, UT 84109
e-mail: joro61@inconnect.com

Danny Quintana, Esq.
Skull Valley Band of Goshute Indians
Danny Quintana & Associates, P.C.
68 South Main Street, Suite 600
Salt Lake City, Utah 84101
e-mail: quintana@xmission.com


Paul A. Gaukler