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June 13, 2000

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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Before the Atomic Safety and Licensing Board

In the Matter of)
)
PRIVATE FUEL STORAGE L.L.C.)
)
(Private Fuel Storage Facility))

Docket No. 72-22-ISFSI

APPLICANT'S MOTION FOR RECONSIDERATION OF THE BOARD'S DENIAL OF THE APPLICANT AND STAFF MOTIONS TO STRIKE PORTION OF TESTIMONY OF MICHAEL SHEEHAN ON UTAH CONTENTION S

Applicant Private Fuel Storage L.L.C. ("Applicant" or "PFS") files this motion for reconsideration of the Atomic Safety and Licensing Board's ("Board") denial on June 12, 2000¹ of the motions of the Applicant and the NRC Staff to strike part of the pre-filed testimony of Michael F. Sheehan, Ph.D. on Contention Utah S.² The Applicant asks the Board to reconsider its decision in light of the fact that Dr. Sheehan's testimony on the vintage of the data underlying PFS's decommissioning cost estimates necessarily calls into question the validity of the estimates themselves, even though PFS and the State of Utah agreed in their stipulation regarding Utah S that the cost estimates, as opposed to the year's dollars in which they were provided and their potential future escalation, would no longer be an issue in this proceeding.³

¹ Memorandum and Order (Ruling on In Limine Motions and Providing Administrative Directives) (June 12, 2000), at 4-5.

² Prefiled Testimony of Michael F. Sheehan, Ph.D. on Behalf of the State of Utah Regarding Contention Utah S (May 15, 2000) ["Sheehan Utah S"]; Applicant's Motion to Strike Portions of Testimony of Michael Sheehan on Utah Contention S (May 31, 2000); NRC Staff's Motion in Limine to Exclude Portions of Prefiled Testimony of Michael F. Sheehan, Ph.D. Regarding Utah Contention S (May 31, 2000).

³ Joint Motion by the State of Utah and the Applicant to Approve Stipulation for the Hearing of Utah Contention S ["Joint Motion"] (Apr. 7, 2000), Attachment A, Basis 4, approved by Memorandum and Order (Granting Joint Motion to Approve Stipulation on Contention Utah S and Outlining Administrative Matters) (May 1, 2000).

Template = SECY-041

SECY-02

Dr. Sheehan's testimony, in response to Questions 8, 19, and 20, questions the vintage of the cost data underlying PFS's decommissioning cost estimates (as opposed to the year's dollars in which PFS provided the estimates). Sheehan Utah S at 6, 10-11. In other words, the State is seeking to challenge the validity of the underlying cost data (by virtue of its age at the time the estimate was made) that PFS used to calculate that the costs of decommissioning the Private Fuel Storage Facility would be \$17,000 per spent fuel storage cask used there plus \$1,631,000 for the site.⁴ If the State is allowed to challenge PFS's underlying cost data on the grounds of age, then the State effectively would be allowed to challenge PFS's estimates of \$17,000 per cask and \$1,631,000 for the site.⁵ The State and PFS, however, explicitly agreed that:

Basis 4 of Contention S is modified such that the State does not contest whether the cost to decommission an individual storage cask is \$17,000 or whether the cost to decommission the remainder of the ISFSI, apart from the storage casks, is \$1,631,000.

Joint Motion at 3 (emphasis added).

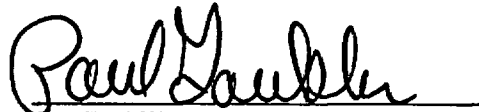
Thus, PFS respectfully requests that the Board reconsider its June 12 decision and strike the part of Michael Sheehan's testimony on Utah S concerning the vintage of the

⁴ Id. at 10-11. See also Deposition of Michael Sheehan (May 4, 2000) at 124-25 (Question and Answer from bottom of page 124 and top of page 125 reproduced as Attachment A hereto). Dr. Sheehan explains his assertion (in the context of PFS's O&M cost estimates) that PFS's cost estimates provided in 1997 dollars may be inaccurate in that they may have been derived in prior years and then escalated forward to 1997 dollars by a factor of inflation that did not take into account real changes in the costs of the specific goods and services up to 1997. In the context of decommissioning, such an assertion constitutes a direct challenge to PFS's cost estimates of \$17,000 per cask and \$1,631,000 for the site.

⁵ PFS used the cost data to directly calculate that the costs of decommissioning the Private Fuel Storage Facility would be \$17,000 per spent fuel storage cask used there plus \$1,631,000 for the site. See PFS License Application, App. B, at 4-2 to 4-6.

data underlying PFS's decommissioning cost estimates as outside the scope of Utah S as agreed upon by PFS and the State of Utah.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul A. Gaukler", written over a horizontal line.

Jay E. Silberg

Ernest L. Blake, Jr.

Paul A. Gaukler

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June 13, 2000

Attachment A

From pp. 124-125 of Deposition of Michael Sheehan (May 4, 2000)

15 Q. Is there any deficiency in these costs as we
16 see in the O&M costs other than what we've described so
17 far as estimating them up in 2002 and 2003 and
18 subsequent dollars? You say it would be better, but is
19 there any deficiency in terms of, as far as you're
20 concerned, using the 1997 dollars and escalating them?

21 A. Well, it's not just 1997 dollars, it's the
22 1997 estimate. Remember, the estimate here could have
23 been based on somebody went out and got a bid in 1990
24 and just ran that up into 1997 dollars, but it would
25 still be based on a 1990 bid. Just because this is in

125

1 1997 dollars doesn't mean that the estimate was based in
2 1997. It only means that the dollars being used to
3 describe the estimate are 1997 dollars.

4 The actual -- when somebody went out and said,
5 "How much do legal fees cost," and if they went out and
6 surveyed the market in 1990 and just used the CPI to
7 upgrade that to 1997, it's probably wrong because legal
8 fees have probably gone up more than the rate of
9 inflation between those years. So it would be much
10 better and much more accurate to go out and see what the
11 legal fees are in 2000 and the price of concrete in 2000
12 and go from there because your error function is going
13 to diverge more and more and adjusting for the year is
14 not going to catch that.

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

CERTIFICATE OF SERVICE

I hereby certify that copies of the "Applicant's Motion for Reconsideration of the Board's Denial of the Applicant and Staff Motions to Strike Portion of Testimony of Michael Sheehan on Utah Contention S" was served on the persons listed below (unless otherwise noted) by e-mail with conforming copies by U.S. mail, first class, postage prepaid, this 13th day of June 2000.

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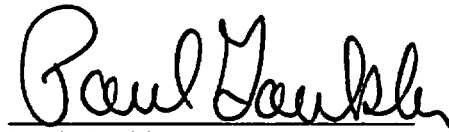
* By U.S. mail only

* Adjudicatory File
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