

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

ATOMIC SAFETY AND LICENSING BOARD

'98 MAR -9 A11:43

Before Administrative Judges:

G. Paul Bollwerk, III, Chairman
Dr. Jerry R. Kline
Dr. Peter S. Lam

OFFICE OF THE
ADMINISTRATIVE JUDGES

SERVED MAR - 9 1998

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 9, 1998

MEMORANDUM AND ORDER

(Request for Information Regarding
Contentions Involving Proprietary
and Safeguards Material)

By letter dated March 2, 1998, the Licensing Board was advised by applicant Private Fuel Storage, L.L.C. (PFS) of the agreements reached with petitioner State of Utah (State or Utah) in connection with the language of the State's two late-filed contentions (Utah EE and Utah GG) on cask-pad seismic stability and certain of the State's nine contentions (Utah Security-A through Utah Security-I) concerning the physical security plan for PFS's proposed Skull Valley, Utah facility. Relative to these State contentions that involve nonpublic safeguards and proprietary information, the Board requests that on or before Wednesday, March 18, 1998, PFS, the State, and the NRC staff take the following actions:

A. PFS and the State, in consultation with the NRC staff, should advise the Board whether the language of all or portions of Utah EE and Utah GG, as revised, can be set forth in publicly available Board issuances without violating any applicable confidentiality agreements or the staff's February 12, 1998 finding under 10 C.F.R. § 2.790, a copy of which was provided to the Board for the record. In addition, on or before that date the State and/or PFS should provide the Board and the Office of the Secretary with one copy of the proprietary and nonproprietary (i.e., redacted) versions of the PFS Proprietary Calculation Package that are cited by the participants as relevant to the admissibility of Utah EE and Utah GG.¹ It is the Board's understanding from the pleadings that this includes portions of Volumes III and IV of the PFS Proprietary Calculation Package, including Holtec Seismic Report HI-971631, Multi-Cask Seismic Response to the [PFS] ISFSI (May 19, 1997); Sierra Nuclear Report No. PFS01-10.02.04, Soil-Structure Interaction Analysis for Evaluation of TranStor™ Storage Cask [Seismic] Stability (July 24, 1997); and Sierra Nuclear Report No. PFS01-10.02.05, TranStor™

¹ Although the Office of the Secretary may wish to acknowledge receipt of this material, given that the nonproprietary version of the PFS Calculation Package apparently is otherwise publicly available, see Letter from Sherwin Turk, NRC Staff Counsel, to Licensing Board, encl. at 1 (Feb. 17, 1998), it is not necessary to serve the nonproprietary version on the other participants to this proceeding.

Storage Cask Seismic Stability Analysis for PFS Site
(July 24, 1997).

B. The staff, in consultation with PFS and the State, should advise the Board whether all or any portions of the language of Utah Security-A through Utah Security-I, as revised, can be set forth in publicly available Board issuances without violating any applicable strictures of 10 C.F.R. Part 73 concerning the confidentiality of safeguards information.

C. If they have not already done so, PFS, the State, and the staff should provide the Board with electronic versions of all pleadings they have filed relative to the State's late-filed cask-pad seismic stability and physical security plan contentions. If these pleadings involve proprietary or safeguards information, they should be provided on 3.5 inch diskettes or CD-ROMs transmitted in accordance with previous Board directives regarding transmittal of sensitive information in electronic format. See Licensing Board Memorandum and Order (Protective Order and Schedule for Filing Security Plan Contentions) (Dec. 17, 1997) at 8 n.8 (unpublished) [hereinafter Protective Order]. Filings concerning proprietary materials should be placed on separate diskettes or CD-ROMs from those involving safeguards information and should be marked accordingly.

D. With the exception of the proprietary and nonproprietary PFS Proprietary Calculation Package materials

described in paragraph A above, the filings required or permitted under paragraphs A and B of this memorandum and order should be served on the Board, the Office of the Secretary, and counsel for the other participants by facsimile transmission, e-mail, or other means that will ensure receipt by close of business (4:30 p.m. EST) on the day of filing. See Licensing Board Memorandum and Order (Initial Prehearing Order) (Sept. 23, 1997) at 5-6 (unpublished); Licensing Board Memorandum and Order (Additional Guidance on Service Procedures) (Nov. 19, 1997) (unpublished). The proprietary and nonproprietary PFS Proprietary Calculation Package materials described in paragraph A above should be served on the Board and the Office of the Secretary (1) in the manner described in paragraph I.H.1.b. of the Board's December 17, 1997 memorandum and order, as amended, and include a cover letter or memorandum that shall be served on all other participants as described in paragraph I.H.2. of that issuance, see Protective Order at 8, 9; Licensing Board Memorandum and Order (Additional Amendments to Protective Order) (Dec. 23, 1997) at 2 (unpublished); and (2) so as ensure receipt by

the Board and the Office of the Secretary by the next business day.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD²

G. Paul Bollwerk, III

G. Paul Bollwerk, III
ADMINISTRATIVE JUDGE

Rockville, Maryland

March 9, 1998

² Copies of this memorandum and order were sent this date to counsel for the applicant PFS, and to counsel for petitioners Skull Valley Band of Goshute Indians, Scientists for Secure Waste Storage, Ohngo Gaudadeh Devia, Confederated Tribes of the Goshute Reservation and David Pete, Castle Rock Land and Livestock, L.C., et al., and the State by Internet e-mail transmission; and to counsel for the staff by e-mail through the agency's wide area network system.

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NUCLEAR REGULATORY COMMISSION

In the Matter of

PRIVATE FUEL STORAGE, LLC

(Independent Spent Fuel Storage
Installation)

Docket No.(s) 72-22-ISFSI

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB M&O-REQ. FOR INFORMATION... have been served upon the following persons by U.S. mail, first class, except as otherwise noted and in accordance with the requirements of 10 CFR Sec. 2.712.

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Dated at Rockville, Md. this
9 day of March 1998

Adria T. Byrdson
Office of the Secretary of the Commission