

March 26, 1998

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

NRC STAFF'S RESPONSE TO
APPLICANT'S AND STATE OF UTAH'S PROPOSED
CORRECTIONS TO THE REVISED TRANSCRIPT

Pursuant to 10 C.F.R. § 2.730(c) and the Licensing Board's "Memorandum and Order (Revised Schedule for Transcript Corrections)," dated March 10, 1998, the NRC Staff ("Staff") hereby responds to the proposed corrections to the revised transcript of the Prehearing Conference held on January 27-29, 1998, submitted by Private Fuel Storage L.L.C. (the "Applicant") and the State of Utah on March 20, 1998.¹

The Staff has reviewed the State's proposed transcript corrections, and while many of those proposed corrections appear to be unnecessary,² the Staff objects only to the specific proposed corrections set forth below. The Staff has also reviewed the Applicant's proposed transcript corrections, and objects to one of those corrections, as set forth below.

¹ See (1) "Applicant's Proposed Corrections to Revised Transcript" (Applicant's Corrections), dated March 20, 1998; and (2) "State of Utah's Proposed Corrections to the Revised Transcript of the Prehearing Conference" (State's Corrections), dated March 20, 1998.

² The Staff notes that many of the State's proposed corrections seek to correct typographical errors or other errors of little consequence (since oral argument, rather than testimony, is involved and the transcript is often sufficiently understandable without corrections).

DISCUSSION

A. Staff's Views of Proposed Transcript Corrections.

The Staff objects to the following corrections proposed by the State and/or Applicant.

(1) The State proposes to correct a statement made by Mr. Later, at Page 101, Line 13, to change "NCFR" to "CFR." This correction should instead read "10 CFR." ✓

(2) The State proposes to correct a statement made by Mr. Later, at Page 118, Lines 5 and 7, to change "PFSN" to "PSFS." This correction should instead read "PFSF." ✓

(3) The State proposes to correct a statement made by Ms. Chancellor, at Page 139, Line 11, to change "transport one" to "transfer from." To render the sentence more correct, this correction should read "transfer from one."

(4) The State proposes to correct a statement made by Ms. Chancellor, at Page 139, Lines 18-19, to change "turn around real fast and get get" to "turn the truck around and get." To correctly reflect the actual statement made, the Staff believes this change should be modified to read more correctly, "turn around real fast and get."

(5) The State proposes to correct a statement made by Judge Kline, at Page 139, Line 22, to delete the phrase "potential to be fenced," but it indicates by use of the symbol "???" that it does not have a proposed correction to suggest. The Staff believes that this phrase should remain in the transcript, but the words which immediately follow this phrase should be changed from "-- can't they consider" to "a condition when they consider."

(6) The State proposes to correct a statement made by Judge Bollwerk, at Page 154, Line 15, to delete the words "who's" on Line 15 and "is" on Line 16. To render the statement more correct, the Staff believes that only the word "is" (not "who's") should be deleted.

(7) The State proposes to correct a statement made by Judge Lam, at Page 161, Line 20, to delete the word "people," but it indicates by use of the symbol "???" that it does not have a proposed correction to suggest. Although the sentence is incompletely reported (so that any change would have little effect), if any correction to the sentence is made, the Staff believes the word "people" should be corrected to read "spent fuel."

(8) The State proposes to correct a statement made by Mr. Silberg, at Page 194, Line 17, to change "stated state" to "state." To more accurately reflect the statement made and to render the sentence comprehensible, this change should more correctly read, "stated."

(9) The State proposes to change a statement made by Ms. Curran, at Page 207, Line 14, to delete the words, "Oh, okay." This proposed correction, however, constitutes a *post facto* revision to the actual statement made and reflected in the transcript, and is therefore inappropriate.

(10) The State proposes to correct Page 217, Line 23, to change "MR. KENNEDY" to read "MR. SILBERG (or BLAKE)." This proposed correction was also addressed by the Applicant, whose correction would read "MR. SILBERG" (Applicant's Corrections at 2).³ The Staff believes that the Applicant's proposed correction is correct and should be adopted in lieu of the correction proposed by the State.

³ As the Staff noted in response to the State's and Applicant's initial sets of proposed corrections, filed on February 24, 1998, the fact that different parties have sought to correct the same portion of the transcript in different ways highlights the difficulties that can arise when parties seek to correct the transcript of statements made by persons other than their own counsel or witnesses. Accordingly, in the absence of compelling circumstances, the Staff suggests, that in the future, the parties should refrain from filing proposed transcript corrections except with respect to statements made (a) by their own counsel or witnesses, (b) by another party's witness during cross-examination by the moving party, or (c) by members of the Licensing Board. Alternatively, transcript corrections should be made upon stipulation among the parties.

(11) The State proposes to correct a statement made by Judge Bollwerk, at Page 310, Line 2, to delete the words "basically what's," but the State indicates by use of the symbol "???" that it does not have a proposed correction to suggest. To correctly reflect the actual statement made, the Staff believes this phrase should be corrected to read, "basically that it's."

(12) The State proposes to correct a statement made by Ms. Chancellor, at Page 342, Line 22, to change "take other" to "take place other." The Staff believes this change is unnecessary and would render the sentence incomprehensible; it therefore should be rejected.

(13) The State proposes to correct a statement made by Judge Lam, at Page 347, Line 23, to delete the sentence, "You're welcome," but the State indicates by use of the symbol "???" that it does not have a proposed correction to suggest. The Staff believes that this statement is correct as reflected in the transcript but, in the context of the preceding discussion, the speaker appears to have been Mr. Kennedy (*see* discussion at Tr. 346, Line 18, to Tr. 347, Line 5). Accordingly, if any change is made to this statement, "DR. LAM" should be changed to read "MR. KENNEDY" on Page 347 Line 23.

(14) The State proposes to correct a statement by Ms. Chancellor, at Page 408, Line 12, to change the phrase "decommissioning are adequate" to read "decommissioning are not adequate." This proposed correction, however, would render the sentence incomprehensible, in that the sentence pertains to a showing that allegedly must be made by the Applicant to obtain its license. The transcript is correct as printed, and this change should therefore be rejected.

(15) The State proposes to correct a statement by Judge Lam, at Page 532, Lines 17-18, to change "requirement consideration of sabotage risk" to read "requirement to consider sabotage exists." This proposed correction is incorrect, and would render the sentence

incomprehensible. To correctly reflect the statement made, the Staff believes the transcript should be corrected to read, "requirement for consideration of sabotage risk."

(16) The State proposes to correct a statement by Ms. Curran, at Page 542, Line 7, to change the words "that are relatively small, if" to read, "that are of relatively small probability, if." Like item (9) above, this proposed correction constitutes a *post facto* revision to Counsel's actual statement, which is correctly reflected in the transcript. Accordingly, this proposed correction should be rejected.

(17) The State proposes to correct Page 556, Line 2, to change the spelling of the name "Paperiello" to read "Papariello." The spelling reflected in the transcript, however, is correct; and the proposed change should therefore be rejected.

(18) The State proposes to correct a statement made by Mr. Turk, at Page 577, Line 21, to change "insufficient" to "insufficiently." This statement was addressed by the Staff in its proposed transcript corrections, wherein the word "insufficient" would be changed to read, "sufficiently."⁴ The Staff submits that its proposed change (which constitutes a *verbatim* quote from NUREG-0170), is correct and should be adopted in lieu of the State's proposed correction.

(19) The State proposes to correct a statement by Judge Lam, at Page 588, Line 11, to change "There would -- leading" to read "That would lead." The transcript, however, is correct as stated; also, this proposed change could later cause the statement to be misinterpreted to suggest that Judge Lam (rather than the State) had asserted that the postulated scenario "would lead to a criticality accident." Accordingly, this proposed correction should be rejected.

⁴ See "NRC Staff's Motion to Correct the Revised Transcript," dated March 19, 1998, Attachment, at 2.

(20) The Applicant proposes to correct a statement made by Mr. Silberg, at Page 667, Line 20, to change "to pay less for" to read, "S-4." The Staff believes this phrase should more accurately be changed to read, "Table S-4."

B. Consultation With Other Parties.

The Staff has discussed its objections to these proposed transcript corrections with Counsel for the State and Counsel for the Applicant. Counsel for the Applicant stated that the Applicant does not object to these proposed modifications. Counsel for the State authorized the Staff to represent that the State agrees with items (1), (2), (3), and (6) above; and while the State believes that its other corrections are appropriate, it would not oppose the modifications proposed by the Staff herein.

CONCLUSION

The Staff respectfully submits that certain of the State's and Applicant's proposed corrections to the revised transcript should be modified as described herein. Except as noted herein, the Staff does not oppose the proposed transcript corrections.

Respectfully submitted,



Sherwin E. Turk
Counsel for NRC Staff

Dated at Rockville, Maryland
this 26th day of March 1998

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S RESPONSE TO APPLICANT'S AND STATE OF UTAH'S PROPOSED CORRECTIONS TO THE REVISED TRANSCRIPT" in the above captioned proceeding have been served on the following through deposit in the Nuclear Regulatory Commission's internal mail system, or by deposit in the United States mail, first class, as indicated by an asterisk, with copies by electronic mail as indicated, this 26th day of March, 1998:

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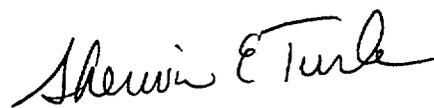
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