

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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USNRC

ATOMIC SAFETY AND LICENSING BOARD

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Before Administrative Judges:

G. Paul Bollwerk, III, Chairman
Dr. Jerry R. Kline
Thomas D. Murphy

OFFICE OF SECRETARY
RULEMAKING AND
ADJUDICATIONS STAFF

! SERVED SEP 23 1997

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

September 23, 1997

MEMORANDUM AND ORDER
(Initial Prehearing Order)

In this proceeding, applicant Private Fuel Storage, L.L.C. (PFS), has applied for a license under 10 C.F.R. Part 72 to possess and store spent nuclear reactor fuel in an independent spent fuel storage installation (ISFSI) located on the Skull Valley Goshute Indian Reservation in Skull Valley, Utah. On July 21, 1997, the NRC staff issued a notice that the agency is (1) considering this license application, and (2) affording the opportunity for a formal adjudicatory hearing on the application. The notice was published in the Federal Register on July 31, 1997. See 62 Fed. Reg. 41,099 (1997). By five separate filings submitted on September 8, 11, and 12, 1997, various petitioners have

asked for a hearing relative to the PFS license application or to be made a party to any hearing that is held.¹

In accordance with its authority under 10 C.F.R. § 2.718, the Licensing Board sets forth the following directives regarding the conduct of this proceeding:

I. Schedule for Further Filings Regarding
Petitioners' Hearing Requests/Intervention Petitions
and for Prehearing Conference/Site Visit

A. Answers to Hearing Requests/Intervention Petitions

With the exception of the staff, participant answers to the pending hearing requests/intervention petitions shall be filed on or before Monday, September 29, 1997. The staff's answers to the pending hearing requests/intervention petitions shall be filed on or before Thursday, October 2, 1997. On or before that same date, the staff should provide the Board with a status report detailing when it expects to issue a safety evaluation report (SER) and an environmental impact statement (EIS) regarding the PFS application.

B. Supplement to Hearing Requests/Intervention Petitions

Pursuant to 10 C.F.R. § 2.714(b), on or before Friday, October 24, 1997, the petitioners shall file supplements to their hearing petitions/intervention requests, which must

¹ Those petitioners include the Confederated Tribes of the Goshute Reservation and David Pete; the State of Utah; Castle Rock Land and Livestock, L.C.; Skull Valley Company, LTD., and Ensign Ranches of Utah, L.C.; the Skull Valley Band of Goshute Indians; and Ohngo Gaudadeh Devia.

include a list of contentions and supporting bases. Answers to those supplements shall be filed on or before Monday, November 10, 1997. Copies of the supplements and answers thereto should be provided to the Board and the other participants by facsimile transmission or other means that will ensure receipt by 4:30 p.m. Eastern Time on the day of filing. See paragraph II.B below.

C. Prehearing Conference/Site Visit

The Licensing Board intends to hold a prehearing conference in the Salt Lake City, Utah area the week of November 17, 1997. It anticipates this conference will last at least two days. In conjunction with the prehearing conference, the Board would also like to tour the proposed ISFSI site. Any of the participants who have potential scheduling conflicts the week of November 17 should contact the Board Chairman immediately at (301) 415-7454.

II. Administrative Matters

A. Notice of Appearance

If they have not already done so, within ten days of the date of this memorandum and order, each attorney or representative for each participant shall file a notice of appearance complying with the requirements of 10 C.F.R. § 2.713(b). In each notice of appearance, besides providing a business address and telephone number, if an attorney or representative has a facsimile number and/or an Internet

e-mail address, the attorney or representative should provide that information as well. Counsel who have already submitted a notice of appearance that does not provide facsimile or e-mail information should file a supplemental statement with that information within ten days of the date of this issuance.

B. Service on the Licensing Board Members

For each pleading or other submission filed before the Licensing Board or the Commission in this proceeding, in addition to submitting an original and two conforming copies to the Office of the Secretary as required by 10 C.F.R. § 2.708(d) and serving a copy on every other participant in accordance with section 2.701(b), a participant should serve conforming copies on the members of the Licensing Board by one of the following methods:

1. Regular Mail. To complete service on the members of the Licensing Board via United States Postal Service first-class mail, a participant should send conforming copies to each of the Licensing Board members at the following address:

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

For regular mail service, the staff may use the NRC internal mail system (Mail Stop T-3F23) in lieu of first-class mail.

2. Overnight or Hand Delivery. To complete service on the members of the Licensing Board via overnight (e.g., express mail) or hand delivery, a participant should send conforming copies to each of the Licensing Board members at the following address:

Atomic Safety and Licensing Board Panel
Third Floor, Two White Flint North
11545 Rockville Pike
Rockville, MD 20852

3. Facsimile Transmission. To complete service on the members of the Licensing Board by facsimile transmission, a participant should (1) send one copy by rapifax to the attention of the members of the Licensing Board at (301) 415-5599 (verification (301) 415-7405); and (2) that same date, send conforming copies to each of the Licensing Board members by regular mail at the address given in paragraph II.B.1 above.

4. E-Mail. To complete service on the members of the Licensing Board by e-mail transmission, a participant should (1) send the filing (which should include the certificate of service) as a file (preferably in WordPerfect 5.1 or 6.1 format) attached to an e-mail message directed to each of the Licensing Board members (Internet IDs: gpb@nrc.gov, jrk2@nrc.gov, tdm@nrc.gov; NRC Agency Upgrade of Technology for Office Systems (AUTOS) Wide Area Network (WAN) System IDs: GPB, JRK2, TDM); (2) for any attachments or exhibits to a pleading that cannot be transmitted by e-mail, send those

documents to the Licensing Board members by separate facsimile transmission or other means that will ensure receipt by the due date; and (3) send paper conforming copies that same date to each of the Licensing Board members by regular mail at the address given in paragraph II.B.1 above.

5. Timely Service by Hand Delivery, Facsimile Transmission, or E-Mail. To be timely, any pleading or other submission served on the Licensing Board members by hand delivery, facsimile transmission, or e-mail must be received by the Licensing Board no later than 4:30 p.m. Eastern Time on the date due.

6. Service on Other Participants. If the Licensing Board directs that service of a pleading should be made on it by one or more of the methods outlined above (e.g., facsimile or e-mail with conforming paper copies to follow by mail), the participant serving the pleading should make service on all other participants and the Office of the Secretary by the same or a comparable method.

C. Motions for Extension of Time

For any motion for extension of time filed with the Licensing Board in this proceeding, except upon a showing of good cause, the participant requesting the extension shall:

1. Ascertain whether and when any other participant intends to oppose or otherwise respond to the motion and

apprise the Licensing Board of that information in the motion; and

2. Serve the motion on the Licensing Board so that it is in its hands at least three business days before the due date for the pleading or other submission for which an extension is sought.

D. Exhibits/Attachments to Filings

If a participant files a pleading or other submission with the Licensing Board that has additional documents appended to it as exhibits or attachments, a separate alpha or numeric designation for each appended document (e.g., Exhibit 1; Attachment A) should be given to each appended document, either on the first page of the appended document or on a cover/divider sheet in front of the appended document.

III. Electronic Hearing Database

Establishing an electronic database for this case will be a significant aid to the Licensing Board and the parties as the proceeding goes forward. Although the agency's rules of practice do not yet incorporate provisions for filing and docketing documents electronically, the Board nonetheless would like to have the participants' cooperation in establishing an electronic database for this proceeding.

To this end, the Board requests that for each filing or submission that a participant makes, it provide the Board

with an electronic version of the document. The electronic version of the document can be submitted by e-mail or on a 3.5 inch diskette. Text documents can be forwarded in their native wordprocessing format (e.g., Word, WordPerfect).² Any nontext documents/attachments (e.g., maps or older text documents for which an electronic version is not available) should be provided in any standard image format (e.g., BMP, TIFF, JPG, JIF).³

So that the Licensing Board can begin creating this database, within ten days from the date of this memorandum and order, each of the participants should provide the Board with an electronic version of any documents (e.g., hearing/intervention petitions or answers) they already have filed in this proceeding. Electronic copies of future filings should be provided to the Board contemporaneously with the submission of the document.

Electronic copies of filings should be sent to James M. Cutchin V by mail at the address given in paragraph II.B.1 above or by Internet e-mail to jmc3@nrc.gov (NRC Autos

² In submitting the electronic version of text documents, the parties should be careful to ensure that any dates in the documents are entered using characters rather than a "date code." Inserting a date code may cause the date to appear as the current date when the document is viewed, thereby creating confusion about the actual date of the document.

³ A party that has any questions about image format compatibility or does not have the capability of providing images of nontext documents should contact Mr. James Cutchin at the phone number given in the text below.

address JMC3). Mr. Cutchin can be reached at (301) 415-7397 if the participants have any questions about formatting or submitting electronic documents.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD⁴


G. Paul Bollwerk, III
ADMINISTRATIVE JUDGE

Rockville, Maryland

September 23, 1997

⁴ Copies of this memorandum and order are being sent this date to counsel for PFS and the petitioners by facsimile transmission and to staff counsel by e-mail transmission through the agency's WAN.

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB M&O (INITIAL PREHEARING...) 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.

Office of Commission Appellate
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Docket No.(s)72-22-ISFSI
LB M&O (INITIAL PREHEARING...)

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Dated at Rockville, Md. this
23 day of September 1997

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Castle Rock, et al.
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Adria T. Byrdson
Office of the Secretary of the Commission