

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

ATOMIC SAFETY AND LICENSING BOARD

'99 JUN -4 P1:23

Before Administrative Judges:

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

OFFICE OF THE
REGULATORY
ADJUDICATOR GENERAL

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

June 4, 1999

SERVED JUN - 4 1999

ORDER

(Ruling on Discovery and Summary
Disposition Time Extension Filings)

Upon consideration of (1) intervenor Ohngo Gaudadeh Devia's (OGD) June 2, 1999 motion to defer action on its May 27, 1999 motion to compel applicant Private Fuel Storage, L.L.C., (PFS) to respond to OGD's May 10, 1999 discovery requests; and (2) the NRC staff's June 3, 1999 motion for extension of time to file its response to the PFS May 19, 1999 motion for summary disposition on contention Utah H, it is

ORDERED, that (1) the OGD June 2, 1999 motion to defer action on its motion to compel is granted; (2) OGD shall file a statement with the Board on or before Wednesday, June 9, 1999, specifying what portions of its May 27 motion to compel no longer require Board action; and (3) PFS shall

file its response regarding any portions of the OGD motion to compel still at issue within seven days of the date upon which the OGD statement of matters not in controversy is filed;¹ and it is

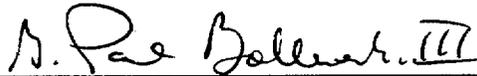
FURTHER ORDERED, that (1) the staff's June 3, 1999 motion for extension of time to respond to the PFS May 19, 1999 motion for summary disposition on contention Utah H is granted; (2) the staff and intervenor State of Utah (State) shall have up to and including Friday, June 25, 1999, within which to file responses to the PFS summary disposition motion;² and (3) responses opposing responses supporting the motion shall be filed on or before Friday, July 9, 1999.

¹ This response deadline is in line with the response period established in the Board's general directive regarding discovery motions. See Licensing Board Memorandum and Order (Additional General Schedule Guidance and Informal Discovery Status Conference Schedule) (Aug. 20, 1998) at 4 (unpublished). Such a seven-day period also would be applicable to any OGD response to the PFS motion, filed this date, to quash the deposition of Leon Bear.

² In its motion, the staff represents that the State requests a similar extension of time to file its response to the PFS motion, which PFS opposes absent a showing of good cause that it asserts has not been made. See NRC Staff's Motion for Extension of Time to File Response to [PFS] Motion for Summary Disposition (Contention H) (June 3, 1999) at 3. PFS's point normally would be well taken. In this instance, however, the rule governing summary disposition responses contemplates simultaneous filings by those opposing and supporting the motion. See 10 C.F.R. § 2.749(a). As a consequence, in the absence of any apparent reason why the rule's filing sequence should not be observed, we grant the State (which it is reasonable to assume will oppose the PFS motion) a similar extension.

The filings permitted under this 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 midnight Eastern Time (ET) 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); Licensing Board Memorandum and Order (Schedule for Telephone Conference and Directives Regarding Expedited Service) (Sept. 2, 1998) at 2-3 (unpublished).

FOR THE ATOMIC SAFETY
AND LICENSING BOARD³



G. Paul Bollwerk, III
ADMINISTRATIVE JUDGE

Rockville, Maryland

June 4, 1999

³ Copies of this order were sent this date by Internet e-mail transmission to counsel for (1) applicant PFS; (2) intervenors Skull Valley Band of Goshute Indians, OGD, Confederated Tribes of the Goshute Reservation, Southern Utah Wilderness Alliance, and the State; and (3) the staff.

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NUCLEAR REGULATORY COMMISSION**

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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 ORDER--RUL'G ON DISCOVERY.. 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
Adjudication
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
G. Paul Bollwerk, III, Chairman
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Jerry R. Kline
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Peter S. Lam
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Sherwin E. Turk, Esq.
Catherine L. Marco, Esq.
Office of the General Counsel
Mail Stop - 0-15 B18
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Diane Curran, Esq.
Harmon, Curran, Spielberg
& Eisenberg, L.L.P.
1726 M Street, NW, Suite 600
Washington, DC 20036

Martin S. Kaufman, Esq.
Atlantic Legal Foundation
205 E. 42nd St.
New York, NY 10017

Joro Walker, Esq.
Land and Water Fund of the Rockies
2056 East 3300 South, Suite 1
Salt Lake City, UT 84109

Docket No.(s)72-22-ISFSI
LB ORDER--RUL'G ON DISCOVERY..

Denise Chancellor, Esq.
Assistant Attorney General
Utah Attorney General's Office
160 East 300 South, 5th Floor
P.O. Box 140873
Salt Lake City, UT 84114

Daniel G. Moquin, Esq.
Utah Attorney General's Office
1594 West North Temple, Suite 300
Salt Lake City, UT 84114

Jay E. Silberg, Esq.
Shaw, Pittman, Potts & Trowbridge
2300 N Street, NW
Washington, DC 20037

John Paul Kennedy, Esq.
Confederated Tribes of the Goshute
Reservation and David Pete
1385 Yale Avenue
Salt Lake City, UT 84105

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

Danny Quintana, Esq.
Skull Valley Band of Goshute Indians
Danny Quintana & Assocs., P.C.
50 West Broadway, Fourth Floor
Salt Lake City, UT 84101

Richard Wilson
Department of Physics
Harvard University
Cambridge, MA 02138

Dated at Rockville, Md. this
4 day of June 1999


Office of the Secretary of the Commission