

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

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

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

February 2, 1998

MEMORANDUM AND ORDER  
(Memorializing Initial Prehearing  
Conference Directives)

During the course of the January 27-29, 1998 initial prehearing conference in this proceeding, the Board issued several directives regarding scheduling and length of pleadings. Those are memorialized below, along with additional requirements concerning the filing of reply pleadings:

I. Scheduled Dates

- A. Monday, February 2, 1998 -- Amended petition to intervene of Richard Wilson and other individuals and the Atlantic Legal Foundation (Wilson/ALF)
- B. Wednesday, February 11, 1998 -- State of Utah (State or Utah) pleading addressing use of proprietary information to prepare Utah Contentions EE-GG and time line for Utah Contentions EE and FF
- C. Friday, February 13, 1998 -- Participant responses to Wilson/ALF amended petition

- D. Wednesday, February 18, 1998 -- Responses to January 21, 1998 petition of Castle Rock Land & Livestock, L.C., Skull Valley Co., Ltd., and Ensign Ranches of Utah, L.C., (Castle Rock) for nonapplication or waiver of Commission rules
- E. Monday, February 23, 1998 -- Private Fuel Storage, L.C. (PFS), and NRC staff responses to State filing described in paragraph I.A.

See Tr. at 307-08 (Jan. 29, 1998).

The filings required or permitted under this paragraph of this memorandum and order that do not contain proprietary or safeguards information 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 See Licensing Board Memorandum and Order (Initial Prehearing Order) (Sept. 23, 1997) at 5-6 (unpublished) [hereinafter Initial Prehearing Order]; Licensing Board Memorandum and Order (Additional Guidance on Service Procedures) (Nov. 19, 1997) (unpublished). If, on the other hand, a filing includes proprietary or safeguards information, it should (1) be served in the manner and on the individuals described in paragraphs I.H.1.a.-b. of the Board's December 17, 1997 memorandum and order, as amended, and include a cover letter or memorandum that shall served on all other participants as described in paragraph I.H.2. of that issuance, see Licensing Board Memorandum and Order (Protective Order and Schedule for Filing Security Plan Contentions) (Dec. 17,

1997) at 8, 9 (unpublished); Licensing Board Memorandum and Order (Additional Amendments to Protective Order) (Dec. 23, 1997) at 2 (unpublished); and (2) be served so as ensure receipt by the individuals described in paragraph I.H.1.a. of the Board's December 17, 1997 memorandum and order by the next business day.

II. Limitations on Pleading Length and Reply Pleadings

A. Page Limitation. All motions filed after the date of this memorandum and order and any related responsive pleadings shall not exceed ten pages in length (including signature page) absent preapproval of the Board. A request for Board preapproval to exceed this page limitation shall sought in writing no less than three business days prior to the time the motion or responsive pleading is filed or due to be filed.<sup>1</sup> A request to exceed this page limitation must (1) indicate whether the request is opposed or supported by the other participants to the proceeding;<sup>2</sup> and (2) provide a good faith estimate of the number of additional pages that will be filed.

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<sup>1</sup> This time limitation is being modified from that stated at the prehearing conference to make it consistent with the time limitation for filing requests for extension of time. Compare Tr. at 314 (Jan. 29, 1998) with Initial Prehearing Order at 7.

<sup>2</sup> Each participant is free to enter into an agreement with any other participant to waive the need to ascertain its position on time or page extension requests or reply motions. The participants should notify the Board of such waiver agreements, either generically or in the particular motion.

B. Reply Pleadings. Also, in accordance with the agency's rules of practice, leave must be sought to file a reply to a response to a motion. See 10 C.F.R. § 2.730(c). A request for Board preapproval to file a reply shall be sought in writing no less than three business days prior to the time the reply will be filed.<sup>3</sup> A request to file a reply must indicate whether the request is opposed or supported by the other participants to the proceeding.

C. Serving and Opposing a Request to Exceed the Page Limitation or to File a Reply. A request to exceed the page limitation or to file a reply 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. ET) on the day of filing. Any written opposition to a request to exceed the page limit or to file a reply shall 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

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<sup>3</sup> Although the agency's rules of practice do not provide for reply pleadings, the Board will presume that for a reply to be timely, it would have to be filed within ten days of the date of service of the response it is intended to address.

receipt by close of business (4:30 p.m. ET) on the next business day after the filing of the request.

It is so ORDERED.

FOR THE ATOMIC SAFETY  
AND LICENSING BOARD<sup>4</sup>

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G. Paul Bollwerk, III  
ADMINISTRATIVE JUDGE

Rockville, Maryland

February 2, 1998

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Copies of this memorandum and order were sent this date by Internet e-mail transmission to counsel for the applicant PFS; to counsel for petitioners Skull Valley Band of Goshute Indians, Ohngo Gaudadeh Devia, Confederated Tribes of the Goshute Reservation and David Pete, Castle Rock, and the State; and to the representative of petitioners Wilson/ALF; and to counsel for the staff by e-mail transmission through the agency's wide area network system.