

RAS 2221

DOCKETED
USDC

September 19, 2000

'00 SEP 26 P 3:58

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

Before the Atomic Safety and Licensing Board

Q
A

In the Matter of)	
)	
PRIVATE FUEL STORAGE L.L.C.)	Docket No. 72-22
)	
(Private Fuel Storage Facility))	ASLBP No. 97-732-02-ISFSI

**APPLICANT'S AND STATE OF UTAH'S JOINT
REQUEST FOR MODIFICATION OF THE
DEPOSITION SCHEDULE FOR CONTENTION UTAH L**

Private Fuel Storage ("Applicant" or "PFS") and the State of Utah ("State") jointly request the Atomic Safety and Licensing Board ("Licensing Board" or "Board") to modify the existing schedule for the depositions of Applicant's and State's witnesses for Contention Utah L. In the Board's Memorandum and Order (General Schedule Revision, Withdrawal of Contentions H and Utah U and Status of Contention Utah GG) of September 5, 2000, the Board affirmed the August 15-September 29, 2000 deposition window for Applicant's and State's Utah L witnesses, except for Dr. Arabasz, for whom the Board extended the date to October 30, 2000. Due to conflicting schedules and unavailability of deponents, and the efficiency of conducting joint depositions, PFS and the State jointly move to extend the deposition time for all of Applicant's and State's witnesses to October 30, 2000.

Applicant and the State have agreed that, with respect to Contention Utah L, it will generally be most efficient to conduct the deposition of witnesses who have the same general area of expertise (e.g., soils), back to back in order to minimize the time and

Template = SECY-041

SECY-02

travel of both counsel and the witnesses (on the assumption that witnesses would generally be present at the deposition of the other side's expert witnesses to assist counsel).

With respect to two of the three general areas of expertise embodied in Contention Utah L (geophysics and soils), various witnesses were unavailable during the month of September (which the parties had targeted for Utah L depositions given that reply findings of fact were due on August 28, 2000). Specifically, the mother of one Applicant's soil witnesses has been seriously and terminally ill and he has been unavailable (in Taiwan) for most of the month of September . As for geophysics issues, the only common time that PFS and the State have been able to identify through the end of October for which all of their geophysics witnesses would be available is October 23-25, 2000.

With respect to seismic and ground motion issues, the State and PFS have agreed that it would be most efficient to conduct the deposition of PFS's witnesses (Drs. Coppersmith and Youngs) at the same time as that for the State's witness (Dr. Arabasz), which is set for October. Such an arrangement minimizes travel for both counsel and the witnesses.

Counsel have been conferring among themselves and their witnesses for more than a week to identify common dates for the depositions of the various categories of witnesses and have agreed on the following dates: Applicant's and State's seismic and ground motions witnesses are to be deposed the week of October 16, beginning on

Wednesday, October 18;¹ the State's and Applicant's geophysics experts are to be deposed on Tuesday and Wednesday of the following week (October 24 and 25); and Applicant's and the State's soils witnesses are to be deposed on Thursday and Friday of that same week (October 26 and 27).

Wherefore the Applicant and the State respectfully request the Board to modify the deposition schedule for Contention Utah L to allow the deposition of Applicant's and the State's witnesses through October 30, 2000. Counsel for Applicant has conferred with counsel for the NRC Staff and has been advised that the Staff does not object to this motion.

Respectfully submitted,



Jay E. Silberg
Ernest L. Blake, Jr.
Paul A. Gaukler
D. Sean Barnett
SHAW PITTMAN
2300 N Street, N.W.
Washington, DC 20037
(202) 663-8000
Counsel for Private Fuel Storage L.L.C.

Dated: September 19, 2000

¹ The parties have also agreed that the deposition of the State's other witness, Barry Solomon, would be held at this time.

**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
)	
(Private Fuel Storage Facility))	ASLBP No. 97-732-02-ISFSI

CERTIFICATE OF SERVICE

I hereby certify that copies of Applicant's and State of Utah's Joint Request for Modifications of the Deposition Schedule for Contention Utah L were served on the persons listed below (unless otherwise noted) by e-mail with conforming copies by U.S. mail, first class, postage prepaid, this 19th day of September 2000.

G. Paul Bollwerk III, Esq., Chairman
Administrative Judge
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
e-mail: GPB@nrc.gov

Dr. Peter S. Lam
Administrative Judge
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
e-mail: PSL@nrc.gov

Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
Attention: Rulemakings and Adjudications
Staff
e-mail: hearingdocket@nrc.gov
(Original and two copies)

Dr. Jerry R. Kline
Administrative Judge
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
e-mail: JRK2@nrc.gov; kjerry@erols.com

* Susan F. Shankman
Deputy Director, Licensing & Inspection
Directorate, Spent Fuel Project Office
Office of Nuclear Material Safety &
Safeguards
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

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

Catherine L. Marco, Esq.
Sherwin E. Turk, Esq.
Office of the General Counsel
Mail Stop O-15 B18
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
e-mail: pfscase@nrc.gov

John Paul Kennedy, Sr., Esq.
Confederated Tribes of the Goshute
Reservation and David Pete
1385 Yale Avenue
Salt Lake City, Utah 84105
e-mail: john@kennedys.org

Diane Curran, Esq.
Harmon, Curran, Spielberg &
Eisenberg, L.L.P.
1726 M Street, N.W., Suite 600
Washington, D.C. 20036
e-mail: dcurran@harmoncurran.com

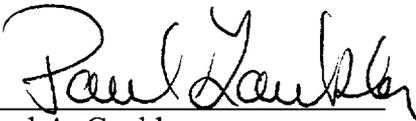
Richard E. Condit, Esq.
Land and Water Fund of the Rockies
2260 Baseline Road, Suite 200
Boulder, CO 80302

* By U.S. mail only

Denise Chancellor, Esq.
Assistant Attorney General
Utah Attorney General's Office
160 East 300 South, 5th Floor
P.O. Box 140873
Salt Lake City, Utah 84114-0873
e-mail: dchancel@state.UT.US

Joro Walker, Esq.
Land and Water Fund of the Rockies
2056 East 3300 South, Suite 1
Salt Lake City, UT 84109
e-mail: joro61@inconnect.com

Danny Quintana, Esq.
Skull Valley Band of Goshute Indians
Danny Quintana & Associates, P.C.
68 South Main Street, Suite 600
Salt Lake City, Utah 84101
e-mail: quintana@xmission.com


Paul A. Gaukler