

January 23, 2001

G. Paul Bollwerk, III, Chairman
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Dr. Peter S. Lam
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Dr. Jerry Kline
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

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

Dear Administrative Judges:

As the Licensing Board and parties may be aware, Private Fuel Storage, L.L.C. ("PFS" or "Applicant") has recently submitted new information to the Nuclear Regulatory Commission and parties in this proceeding, concerning two issues which were addressed in the NRC Staff's "Safety Evaluation Report Concerning the Private Fuel Storage Facility" ("SER"), issued on September 29, 2000. Specifically, new information concerning geotechnical and aircraft crash issues was provided by PFS in the following documents:

1. Letter from John D. Parkyn (Chairman, PFS) to Mark Delligatti (NRC), dated December 11, 2000 (transmitted to the Licensing Board by letter from Jay E. Silberg, Esq., dated December 14, 2000) (revisions to the geotechnical characterization of the PFS site);
2. Letter from John D. Parkyn (PFS) to Mark Delligatti (NRC), dated December 22, 2000 (transmitted to the Licensing Board by letter from Jay E. Silberg, Esq., dated December 28, 2000 (further information concerning revisions to the geotechnical characterization of the PFS site); and
3. "Applicant's Motion for Summary Disposition of Utah Contention K and Confederated Tribes Contention B," dated December 30, 2000, and various attachments thereto (revisions to the Applicant's aircraft crash hazard analysis concerning F-16 flights, cruise missiles, and general aviation aircraft).

With respect to geotechnical issues, the Applicant has stated that it plans to conduct certain additional site investigations and analyses, and that it plans to submit an amendment to its Safety Analysis Report and Environmental Report to incorporate the new information and analyses in March 2001. With respect to aircraft crash issues, the Applicant has informed the Staff that it plans to submit license application amendments later this month.

The Staff completed its safety evaluation of geotechnical and aircraft crash issues in its SER of September 2000. The Staff has now determined, however, that the Applicant's submittal of additional information and analyses pertaining to these matters may require the publication of a supplement to the SER. Further, the Staff has determined that it would not be appropriate or prudent to issue the Final Environmental Impact Statement ("FEIS") for the PFS facility pending the Staff's receipt and review of the Applicant's license application submittals. The Staff's determination in this regard is set forth in the enclosed letter from E. William Brach to John D. Parkyn, dated January 19, 2001.

The Staff understands that the current hearing schedule anticipates publication of the FEIS by February 28, 2001, and that various hearing milestones related to environmental issues reflect that publication date. As a result, a delay in publication of the FEIS could impact the hearing schedule on environmental issues. Similarly, the hearing schedule reflects the Staff's completion of its safety evaluation in September 2000; as a result of PFS' submittal of the new information and analyses, it is possible that certain hearing milestones, and the scope of the safety issues to be heard in July 2001, may require some modification to the extent that they are affected by the new information and analyses to be submitted by PFS.¹

¹ The Staff has previously stated its positions with respect to Contention Utah L (geotechnical issues) and Contention Utah K (offsite hazards). See (a) "NRC Staff's Notice Concerning Contention Utah K, and Statement of Position Concerning Contention Utah L," dated April 28, 2000 (geotechnical issues), and (b) letter from Sherwin E. Turk to the Licensing Board, dated October 6, 2000 (enclosing the SER containing the Staff's evaluation of aircraft crash and other offsite hazards, and stating the Staff's conclusion that aircraft crashes and the other matters raised in Contention Utah K do not present a credible hazard for the proposed PFS facility). Based on a preliminary review of the Applicant's recent letters describing the scope of the new geotechnical investigations and analyses to be performed, the Staff currently believes that the new geotechnical information is unlikely to affect Contention Utah L or the Staff's position on that contention. With respect to aircraft crash issues, Staff review and evaluation of the new information appears likely to be required concerning certain issues -- *i.e.*, the Utah Test and Training Range and Hill Air Force Base (F-16s, jettisoned ordnance, Moser recovery route, and cruise missiles), general aviation aircraft, and cumulative risks. Other subparts of Contention Utah K, however, appear to be unaffected by the new information -- *e.g.*, Salt Lake City International Airport and air routes J-56 and V-257, Dugway Proving Ground conventional weapons testing (including Wig Mountain), and Michael Army Airfield aircraft.

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The Staff regrets that the Applicant was unable to submit its new data and analyses in a more timely fashion, and that the late submittal of this information has necessitated further Staff review and evaluation, a delay in publication of the Staff's FEIS, and the potential need for a supplement to the SER. Following the Staff's receipt and review of the new information and analysis to be provided by PFS, the Staff will advise the Licensing Board and parties of its anticipated publication dates for the FEIS and any SER supplement.

Sincerely,

Sherwin E. Turk/**RA**
Counsel for NRC Staff

Enclosure: As stated

cc w/Encl.: Service List