

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-ISFSI
)	
(Independent Spent)	
Fuel Storage Installation))	

JOINT REPORT ON IMPACTS TO
THE HEARING SCHEDULE DUE TO
THE RECEIPT OF NEW INFORMATION

On January 23, 2001, the NRC Staff ("Staff") informed the Licensing Board and parties of certain developments (including the submittal of new information by Applicant Private Fuel Storage, L.L.C. ("PFS" or "Applicant"), relating to aircraft crash and geotechnical issues, which could affect the Staff's scheduled release of the Final Environmental Impact Statement ("FEIS") and the potential need for a supplement to the Safety Evaluation Report ("SER") in this proceeding. Specifically, the Staff stated as follows:

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.

Letter from Sherwin E. Turk to the Licensing Board, dated January 23, 2001.

On February 2, 2001, the Licensing Board issued its "Memorandum and Order (Requesting Joint Status Report on Schedule Impact)" ("Order"), directing the parties to provide "a joint report that outlines their positions regarding the impact of the FEIS delay on the current schedule for this proceeding, including the evidentiary hearing sessions scheduled for July 2001."

In accordance with the Licensing Board's Order, Counsel for the Staff has conferred with Counsel for the lead parties in this proceeding, *i.e.*, Counsel for PFS, the State of Utah ("State"), Ohngo Gaudadeh Devia ("OGD") and Southern Utah Wilderness Alliance ("SUWA"). The parties wish to provide the following information concerning their views as to the impact of the FEIS delay on the current hearing schedule.

The Applicant has recently submitted two amendments to its license application concerning aircraft crash and cruise missile hazards, on January 19 and 25, 2001. In addition, the Applicant currently expects to submit a license application amendment concerning geotechnical issues in March 2001.

Based upon a preliminary review of the Applicant's January amendments, the Staff anticipates completing its review of aircraft crash/cruise missile hazard issues by April 30, 2001 -- recognizing, however, that this date assumes a prompt and complete response by PFS to any Request for Additional Information (RAI) that may be issued by the Staff. In addition, based upon the Applicant's projected submission of its geotechnical amendment in March 2001, the Staff expects to complete its review of geotechnical issues and to issue the FEIS by July 31, 2001 -- although this projected completion date is subject to reevaluation once the Staff receives the Applicant's new geotechnical information, since the scope and nature of the Applicant's geotechnical amendment is as yet unknown; also, this

projected completion date depends upon the timeliness, completeness and quality of the information to be submitted by PFS, including its responses to any Staff RAIs that may be issued.¹

Recognizing that these projected dates are tentative at present, the parties have attempted to develop a proposed hearing schedule, as set forth in the Attachment hereto. In this regard, the Applicant and Staff believe that hearings should be scheduled for July 2001 on Contention Utah K/Confederated Tribes B (offsite hazards), and that a further set of hearings should be scheduled for November-December 2001 on Contention Utah L (geotechnical) and Group III contentions.² The State believes that only one set of hearings should be held on all contentions, in November-December 2001. In either event, the parties have agreed that no further responses to the Applicant's pending motions for summary disposition of Contentions Utah K and L will be filed by any party -- recognizing, however, that PFS has indicated that it expects to file motions to strike portions of the State's responses to its motions for summary disposition of these contentions.

¹ In the event the Staff finds that it is unable to meet these projected completion dates, it will notify the Licensing Board and parties in a timely manner.

² While hearings on Contention Utah L could be conducted in July-August 2001, the Staff's witnesses on this contention would be required to draft testimony and prepare for hearing at the same time that they are engaged in a review of the Applicant's geotechnical license application amendment (to be submitted in March 2001). The Staff believes that hearings on Contention Utah L during July-August 2001 would interfere with and disrupt the Staff's review of the Applicant's geotechnical submittal, and would result in delaying the issuance of the FEIS and any SER supplement on geotechnical issues -- which would also result in delaying the hearings on environmental contentions. Accordingly, the parties believe the hearing schedule should be modified as set forth in the Attachment hereto, in order to allow the most expeditious and efficient completion of both the Staff's review and the adjudicatory process. See *Private Fuel Storage, L.L.C.* (Independent Spent Fuel Storage Installation), CLI-98-13, 48 NRC 26, 37 (1998).

The parties are available to discuss this matter in a telephone conference call, should the Licensing Board deem it appropriate, at the convenience of the Board.

Respectfully submitted,

/RA/

Sherwin E. Turk
Counsel for NRC Staff

Dated at Rockville, Maryland
this 9th day of February 2001

**PROJECTED HEARING SCHEDULE
(FOLLOWING ORDER of 1/4/01)**

	GROUPS I-II/B - CURRENT	PROPOSED SCHEDULE - UTAH K / CONFED. B	GROUP III- CURRENT	PROPOSED SCHEDULE - UTAH L AND GROUP III
Receive Amendments	----	1/27/01	-----	3/15/01
Staff Position; Issue SSER or EIS	9/29/00	4/30/01	2/28/01	7/31/01
Discovery v. Staff	9/29-12/11/00	5/1 - 5/31/01 (30 days)	3/1-4/13/01	8/1 - 9/7/01*
Motions - Summary Disposition - Final Filing Date	12/30/00	12/30/00 (No change)	3/15/01	5/25/01 (20 pages) 6/29/01 (15 pages) 7/27/01 (10 pages)
Response to SD Motions - Final Filing Date	2/9/01	2/9/01 (No change)	4/13/01	8/28/01
SD Motion Ruling by ASLB	3/16/01	3/16/01 (No change)	5/11/01	9/28/01
File testimony	5/11/01	6/25/01	6/11/01	10/29/01
File in limine motions	5/25/01	7/10/01	6/25/01	11/12/01
HEARINGS	7/9-8/3/01	7/23-27/01	7/9-8/3/01	11/26 -12/21/01
Proposed Findings	9/7/01	8/27/01	9/7/01	1/25/02
Reply Findings	10/1/01	9/24/01	10/1/01	2/22/02
ASLB Decision	11/30/01	11/26/01	11/30/01	4/22/02

* FEIS-related discovery is to commence upon receipt of the FEIS by the State, OGD and SUWA. If the FEIS is received prior to July 31, 2001, the discovery period shall end 6 weeks after the FEIS receipt date.

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CERTIFICATE OF SERVICE

I hereby certify that copies of the "JOINT REPORT ON IMPACTS TO THE HEARING SCHEDULE DUE TO THE RECEIPT OF NEW INFORMATION" in the above captioned proceeding have been served on the following through deposit in the Nuclear Regulatory Commission's internal mail system, or by deposit in the United States mail, first class, as indicated by an asterisk, with copies by electronic mail as indicated, this 9th day of February, 2001.

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/RA/

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