

February 15, 2001

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))

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

The NRC Staff ("Staff"), Applicant Private Fuel Storage, L.L.C. ("PFS") and State of Utah ("State") wish to provide supplemental information to the Licensing Board, which revises the information and proposed hearing schedule contained in the parties' "Joint Report on Impacts to the Hearing Schedule Due to the Receipt of New Information," dated February 9, 2001 ("Joint Report").

First, in the Joint Report, the Staff and Applicant stated their view that hearings on Contention Utah K/ Confederated Tribes B should be held in July 2001 and further hearings should be held on other contentions in November - December 2001. The Joint Report further indicated that the State believed that only one set of hearings should held, in November -December 2001 (Joint Report at 3).¹ The Staff has now determined, however, that it will be unable to proceed to hearings on Contention Utah K in July 2001, because

¹ In the Joint Report, the Staff stated that, "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," and that the Staff believed hearings on Contention Utah K may be held in July (*Id.* at 2). The Joint Report further noted, however, that "these projected dates are tentative at present," and that "[i]n 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" (*Id.* at 3 and n.1).

additional time is likely to be required for it to complete its review of the Applicant's new information on aircraft crash and cruise missile issues and of the Applicant's responses to any Staff Requests for New Information (RAIs). The Staff presently believes that one or two additional months will be needed to complete its review, resulting in a completion date of approximately June 2001. This revised completion date would preclude the completion of discovery and other litigation milestones in time for hearings to be held during Summer 2001. Accordingly, the Staff believes that this contention should be set for hearing along with the other contentions proposed for hearing in November - December 2001.

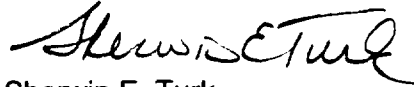
The Staff has conferred with Counsel for the Applicant and Counsel for the State. In light of the Staff's revised projected completion date, those parties have agreed that hearings on Contention Utah K/ Confederated Tribes B should be consolidated with the hearings on other Group II/ III contentions to be held in November - December 2001.

Second, the parties wish to clarify that in Column 4 of the schedule attached to the Joint Report, the proposed discovery and summary disposition dates apply to Group III contentions only; no further discovery or summary disposition motions are proposed to be conducted on Contention Utah L, or on Contention Utah K/ Confederated Tribes B (except for the limited discovery window set forth in Column 2).² A revised proposed schedule is attached hereto, reflecting this clarification.

² PFS notes that in "Applicant's Motion to Strike Portions of State of Utah's Response to Applicant's Motion for Summary Disposition on Utah Contention K/ Confederated Tribes B" ("Motion to Strike"), PFS moved to strike material contained in Lt. Col. Horstman's Declaration and the State's response, containing his assessment of certain matters, which had not been disclosed in discovery (Motion to Strike at 2-4); further, PFS suggested, "as an alternative," that it be allowed to depose Lt. Col. Horstman again in order to question him about the new assessment provided in his declaration (*Id.* at n.8). In the event that the Board denies PFS' motion to strike the new material and grants its alternate relief request instead, a Board determination to permit such discovery would result in a slight modification of the attached proposed schedule.

Finally, PFS wishes to note that it may be able to provide updated information to the Licensing Board and parties next week, concerning the date on which it expects to submit its new geotechnical information and analyses to the NRC.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Sherwin E. Turk". The signature is fluid and cursive, with the first name being the most prominent.

Sherwin E. Turk
Counsel for NRC Staff

Dated at Rockville, Maryland
this 15th day of February 2001

**PROJECTED HEARING SCHEDULE
(REVISED FEBRUARY 15, 2001)**

	GROUPS I-II/B - CURRENT	PROPOSED SCHEDULE - UTAH K / CONFED. B	GROUP III- CURRENT	PROPOSED SCHEDULE - UTAH L AND GROUPS II - III
Receive Amendments	----	1/27/01	----	1/27/01, 3/15/01
Staff Position; Issue SSER or EIS	9/29/00	4/30/01 6/30/01	2/28/01	7/31/01
Discovery v. Staff	9/29-12/11/00	5/1 - 5/31/01 7/1 - 7/31/01 (30 days - new matters only)	3/1-4/13/01	(FEIS only) 8/1 - 9/7/01*
Motions - Summary Disposition - Final Filing Date	12/30/00	<i>12/30/00 (No change)</i>	3/15/01	(FEIS only) 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	<i>2/9/01 (No change)</i>	4/13/01	(FEIS only) 8/28/01
SD Motion Ruling by ASLB	3/16/01	<i>3/16/01 (No change)</i>	5/11/01	(FEIS only) 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 "SUPPLEMENTAL 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 15th day of February, 2001.

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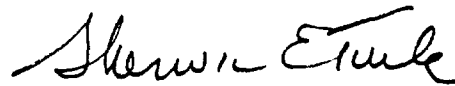
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