

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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|------------------------------|---|------------------------|
| In the Matter of |) | |
| |) | |
| PRIVATE FUEL STORAGE, L.L.C. |) | Docket No. 72-22-ISFSI |
| |) | |
| (Independent Spent |) | |
| Fuel Storage Installation) |) | |

JOINT REQUEST FOR DEFERRAL OF DATE
TO FILE JOINT SCHEDULING REPORT

Pursuant to 10 C.F.R. § 2.730(c), the NRC Staff (“Staff”), State of Utah (“State”) and Private Fuel Storage, L.L.C. (“PFS” or “Applicant”) hereby request a one-week extension of time, until June 29, 2001, to file a proposed joint revision to the hearing schedule in this proceeding, requested in the Licensing Board’s “Memorandum and Order (Requesting Joint Scheduling Report and Delineating Contention Utah L),” dated June 15, 2001.¹ The parties believe that this deferral is appropriate and necessary in light of recent developments, as discussed below.

DISCUSSION

In a decision issued on June 14, 2001, the Commission affirmed the Licensing Board’s ruling on the admissibility of the State’s proposed modification of Contention Utah L, challenging the Applicant’s seismic exemption request, and remanded this issue to the Board for adjudication as part of Contention Utah L.² In a Memorandum and Order dated June 15, 2001, the Licensing

¹ The parties are aware of the requirement in this proceeding that requests for extensions of time are generally to be filed three business days prior to the scheduled date of filing; unfortunately, the recency of events discussed herein precluded such action in this instance. On June 21, 2001, Counsel for the Staff advised the Licensing Board Chairman by telephone of the parties’ intent to file this request.

² *Private Fuel Storage, L.L.C. (Independent Spent Fuel Storage Installation)*, CLI-01-12, 53 NRC ____ (June 14, 2001), *aff’g* LBP-01-03, 53 NRC 84 (2001).

Board requested that, on or before Friday, June 22, 2001, PFS, the State and the Staff file a joint scheduling report, as follows:

[T]he Board requests that on or before Friday, June 22, 2001, PFS, intervenor State of Utah (State) and the NRC staff provide the Board with a joint report outlining a proposed schedule for litigation of this matter [*i.e.*, the State's challenge to PFS's seismic exemption request], bearing in mind the Commission's statement that it "expects the new exemption-related contentions, if they go to hearing, to be included in the hearing contemplated for other admitted issues." CLI-01-12, 53 NRC at ___ (slip op. at 22). As part of this report, the Board requests that the parties also provide an estimate of the time necessary to conduct an evidentiary hearing on the matters still in controversy relative to contention Utah K/ Confederated Tribes B, Inadequate Consideration of Credible Accidents, in light of the Board's May 31, 2001 summary disposition ruling, LBP-01-19, 53 NRC __ (May 31, 2001).

Id. at 1-2.

Recent developments have rendered it necessary for the parties to request a one-week deferral for the filing of the joint report requested by the Licensing Board. Specifically, on June 20, 2001, the Staff informed PFS that it had concluded its acceptance review of PFS's geotechnical license application amendment, and set forth a schedule for its review of the amendment. On the same date, Counsel for the Staff informed the Licensing Board and parties of this matter, enclosing, *inter alia*, the Staff's letter to PFS of that date.³

The review schedule described by the Staff (based upon certain specified assumptions) contemplates the issuance of an SER Supplement on geotechnical issues, and publication of the Final Environmental Impact Statement ("FEIS"), on January 31, 2002; it further indicates that the

³ See Letter from Sherwin E. Turk to the Licensing Board, dated June 20, 2001, and Enclosure 4 thereto.

Staff's review of aircraft crash issues may be completed before that date.⁴ PFS and State received the Staff's review schedule on June 20, 2001, and need additional time to consider the impact of that schedule on the schedule for litigation of other issues in this proceeding.⁵ In addition, the parties need to assess the time required for litigation of other issues in the proceeding, including the seismic exemption issues recently remanded by the Commission to the Licensing Board. The parties believe that they will require an additional period of one week to complete their consideration and discussions of these matters.

CONCLUSION

For the reasons set forth above, PFS, the State and the Staff request a one-week deferral of time, until June 29, 2001, to file the joint scheduling report requested by the Licensing Board in its Memorandum and Order of June 15, 2001.

Respectfully submitted,

/RA/

Sherwin E. Turk
Counsel for NRC Staff

Dated at Rockville, Maryland
this 22nd day of June 2001

⁴ See Letter from Sherwin E. Turk to the Licensing Board, dated June 20, 2001, at 3 (committing to provide an aircraft crash review completion date shortly). The Staff is evaluating the possibility that its review of certain issues may be completed in time for hearings to proceed on those issues prior to hearings on other issues, mindful of the Licensing Board's concern about "backloading" this proceeding. See "Memorandum and Order (General Schedule Revision)," dated February 22, 2001, at 2; "Memorandum and Order (General Schedule Revision, . . .)," dated September 5, 2000, at 2.

⁵ As the Licensing Board is aware, nine environmental contentions remain for litigation in this proceeding: Contentions Utah O (hydrology), Utah T (permits), Utah V (transportation impacts), Utah W (ITP flooding), Utah Z (no action alternative) Utah AA (range of alternatives), Utah DD (ecology and species), OGD O (environmental justice), and SUWA B (rail corridor alternatives). Two safety contentions remain for litigation, in whole or in part: Contentions Utah K/Confederated Tribes B (aircraft crash hazards) and Utah L (geotechnical). Motions for summary disposition are pending with respect to five of these outstanding contentions: Contentions Utah L (subpart A), Utah V, Utah Z, Utah AA, and OGD O. One other proposed contention has been filed: Late-Filed Contention Utah QQ (seismic stability).

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CERTIFICATE OF SERVICE

I hereby certify that copies of "JOINT REQUEST FOR DEFERRAL OF DATE TO FILE JOINT SCHEDULING REPORT" in the above captioned proceeding have been served on the following through deposit in the NRC's internal mail system, with copies by electronic mail, as indicated by an asterisk, or by deposit in the U.S. Postal Service, as indicated by double asterisk, with copies by electronic mail this 22nd day of June, 2001:

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