

RAS 3265

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

DOCKETED 08/01/01

SERVED 08/01/01

Before Administrative Judges:

G. Paul Bollwerk, III, Chairman
Dr. Jerry R. Kline
Dr. Peter S. Lam

In the Matter of

PRIVATE FUEL STORAGE, L.L.C.

(Independent Spent Fuel Storage Installation)

Docket No. 72-22-ISFSI

ASLBP No. 97-732-02-ISFSI

August 1, 2001

MEMORANDUM AND ORDER
(Revised General Schedule)

The Licensing Board has before it a July 26, 2001 joint report in which the parties address the scheduling impacts of recent developments relating to aircraft crash (contention Utah K/Confederated Tribes B) and geotechnical issues (contention Utah L). Previously, in a June 29, 2001 joint report, the parties advised the Board that because of new information from applicant Private Fuel Storage, L.L.C., (PFS), regarding these matters, the NRC staff now anticipated it would be publishing an Safety Evaluation Report (SER) supplement on geotechnical matters and the Final Environmental Impact Statement (FEIS) by January 31, 2002. Further, the joint report indicated that, given these developments, the parties did not believe that either of these matters or the pending environmental contentions would be ready for evidentiary hearings during the November 26 - December 21, 2001 period now designated for such proceedings. Finally, the report requested that the parties be given the opportunity to file an additional scheduling report by mid-September 2001, in which they would attempt to provide a more precise hearing schedule proposal.

Notwithstanding the Board oft-expressed concern (noted most recently in its July 3, 2001 issuance setting a schedule for the parties' July 26, 2001 joint report) about "backloading" the consideration of issues in this proceeding, the parties' July 26, 2001 scheduling submission suggests that, given recent developments, this may be the result. In any event, with the staff's representation that it will not be able to file its position regarding the aircraft crash issues or publish the FEIS in time to go forward with the evidentiary hearing sessions now scheduled for late 2001, those sessions must be canceled. A revised schedule reflecting this action, as well as related changes, is attached. Further, while the Board is not in a position at this juncture to establish a new schedule for further evidentiary hearing sessions in this proceeding, it contemplates being able to do so following submission of the parties' next joint report that, per their request, should be filed on or before Monday, September 10, 2001.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD*

/RA/

G. Paul Bollwerk, III
ADMINISTRATIVE JUDGE

Rockville, Maryland

August 1, 2001

* Copies of this memorandum and order were sent this date by Internet e-mail transmission to counsel for (1) applicant PFS; (2) intervenors Skull Valley Band of Goshute Indians, Ohngo Gaudadeh Devia, Confederated Tribes of the Goshute Reservation, Southern Utah Wilderness Alliance, and the State of Utah; and (3) the staff.

ATTACHMENT A

PRIVATE FUEL STORAGE PROCEEDING GENERAL SCHEDULE -- As revised 8/1/01

EVENT	GROUPS I-II/A ¹	GROUPS I-II/B ²	GROUP-III ³
Informal Discovery Begins -- All Parties	May 19, 1998	May 19, 1998	May 19, 1998
Informal Discovery Closes -- All Parties	February 28, 1999	February 28, 1999	February 28, 1999
Staff Position on Contentions	December 15, 1999	SER -- September 29, 2000 SSER -- January 31, 2002	DEIS -- June 2000 FEIS -- January 31, 2002
Formal Discovery Begins -- All Parties	March 1, 1999	March 1, 1999	March 1, 1999, except (1) DEIS-related discovery against Staff - August 15, 2000; and (2) FEIS-related discovery against Staff - Pending
Formal Discovery Ends -- All Parties Except Against Staff (unless otherwise noted)	May 28, 1999, subject to a November 15, 1999 (against Staff - December 15, 1999) - January 31, 2000 limited discovery window	May 28, 1999, subject to limited windows for (1) Utah L depositions (August 15 - September 29, 2000, except through October 30, 2000, for Dr. Arabasz); and (2) discovery against Staff beginning (i) October 25, 2000, and (ii) Pending re new Utah K/Confederated Tribes B matters.	May 28, 1999, subject to January 16-March 15, 2001 limited discovery window
Formal Discovery Ends -- Against Staff	February 15, 2000	(2)(i) above - December 11, 2000 (2)(ii) above - Pending	DEIS -- September 29, 2000 FEIS -- Pending
Summary Disposition Motions Final Filing Date	February 1, 2000	December 30, 2000	(a) May 25, 2001 (20 pages); (b) June 29, 2001 (15 pages); (c) July 27, 2001 (10 pages)
Summary Disposition Motion Responses Final Filing Date	March 1, 2000	February 9, 2001	(a) June 25, 2001; (b) July 30, 2001; (c) August 27, 2001
Board Summary Disposition Decision	March 31, 2000	April 30, 2001	September 28, 2001
Pre-filed Testimony Submitted	May 15, 2000	Pending	Pending
In Limine Motions Due	May 31, 2000	Pending	Pending
Hearings (including limited appearance sessions as appropriate)	June 19 - June 30, 2000	Pending	Pending
Findings of Fact (Simultaneous filings)	July 31, 2000	Pending	Pending
Findings of Fact Responses (Simultaneous filings)	August 28, 2000	Pending	Pending
Initial Decision	October 30, 2000	Pending	Pending

¹ The contentions in Groups I-II/A include Utah E/Confederated Tribes F; Utah R; and Utah S.

² The contentions in Groups I-II/B is Utah K/Confederated Tribes B; Utah L.

³ The contentions in Group III include Utah O; Utah T; Utah W; Utah AA; Utah DD; OGD O; and SUWA B.

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NUCLEAR REGULATORY COMMISSION

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(Independent Spent Fuel Storage)
Installation))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB MEMORANDUM AND ORDER (REVISED GENERAL SCHEDULE) have been served upon the following persons by deposit in the U.S. mail, first class, or through NRC internal distribution.

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LB MEMORANDUM AND ORDER
(REVISED GENERAL SCHEDULE)

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[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 1st day of August 2001