

RAS 3398

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED 09/17/01
SERVED 09/17/01

ATOMIC SAFETY AND LICENSING BOARD

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

September 17, 2001

MEMORANDUM AND ORDER
(Revised General Schedule)

The Licensing Board has before it the September 10, 2001 joint scheduling report of applicant Private Fuel Storage, L.L.C., (PFS), intervenor State of Utah (State), and the NRC staff, arrived at in consultation with intervenors Ohngo Gaudadeh Devia (OGD) and Southern Utah Wilderness Alliance (SUWA), in which the parties provide a proposed general schedule that encompasses litigation of the remaining admitted contentions regarding the pending PFS application for its proposed Skull Valley, Utah 10 C.F.R. Part 72 independent spent fuel storage installation. As the report notes, the proposed schedule is based on the assumption that the staff will issue safety evaluation report supplements on aircraft crash and geotechnical issues on November 13, 2001 and December 21, 2001, respectively, and that the final environmental impact statement will be issued on December 21, 2001. In addition, the State has requested that prefiled testimony not be due during the period of February 8-24, 2002, when the Winter Olympics will make work in downtown Salt Lake City difficult. As the report also notes, there is one dispute that must be resolved relative to the proposed schedule -- the date for the prefilings of testimony relative to contention Utah K/Confederated Tribes B, Inadequate Consideration of

Credible Accidents. PFS and the staff assert these submissions should be due on or before February 8, 2002, while the State asks that the filings be scheduled for March 11, 2002, along with the other outstanding Groups I-II/B issue, contention Utah L, Geotechnical.

The Board appreciates the efforts evidenced by the parties in arriving at a proposed revised schedule. After reviewing their submission, and noting the parties' understanding as expressed in footnote three of their joint report relative to formal discovery on new material regarding contention Utah L, we adopt the attached revised general schedule as set forth in Attachment A. In doing so, we establish the date for prefiled testimony relative to contention Utah K/Confederated Tribes B as Friday, February 8, 2002. We take this step because the Board's opportunity for a thorough review of the parties' submissions will be aided materially by having this testimony filed in early February rather than in mid-March when the balance of the prefiled testimony is to be submitted. Also, the Board has revised the date upon which it will render its decisions regarding the five pending Group III summary disposition motions to Friday, November 16, 2001, although it does not anticipate that this entire period will be needed for

rulings on all the pending dispositive motions (including that relating to Group I/II-B issue contention Utah L, Basis A).

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD*

/RA/

G. Paul Bollwerk, III
ADMINISTRATIVE JUDGE

Rockville, Maryland

September 17, 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, OGD, Confederated Tribes of the Goshute Reservation, SUWA, and the State of Utah; and (3) the staff.

ATTACHMENT A

PRIVATE FUEL STORAGE PROCEEDING GENERAL SCHEDULE -- As revised 9/17/01

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	Feb. 28, 1999	Feb. 28, 1999	Feb. 28, 1999
Staff Position on Contentions	Dec. 15, 1999	SER -- Sept. 29, 2000 SSER -- Nov. 13, 2001, for Utah K/Confederated Tribes B and Dec. 21, 2001 for Utah L	DEIS -- June 2000 FEIS -- Dec. 21, 2001
Formal Discovery Begins -- All Parties	Mar. 1, 1999	Mar. 1, 1999, except for Utah L, Basis B, which commences on Sept. 17, 2001	Mar. 1, 1999, except (1) DEIS-related discovery against Staff - Aug. 15, 2000; and (2) FEIS-related discovery against Staff - Jan. 2, 2002
Formal Discovery Ends -- All Parties Except Against Staff (unless otherwise noted)	May 28, 1999, subject to a Nov. 15, 1999 (against Staff - Dec. 15, 1999) - Jan. 31, 2000 limited discovery window	May 28, 1999, except for Utah L, Basis B, which ends Nov. 16, 2001, and subject to limited windows for (1) Utah L, Basis A depositions (Aug. 15 - Sept. 29, 2000, except through Oct. 30, 2000, for Dr. Arabasz); and (2) discovery against Staff beginning (i) Oct. 25, 2000 for Utah L, Basis A, (ii) Nov. 21, 2001 (new Utah K/Confederated Tribes B matters), and (iii) Jan. 2, 2002 (new Utah L matters).	May 28, 1999, subject to Jan. 16 - Mar. 15, 2001 limited discovery window
Formal Discovery Ends -- Against Staff	Feb. 15, 2000	(2)(i) above - Dec. 11, 2000 (2)(ii) above - Dec. 21, 2001 (2)(iii) above - Feb. 1, 2002	DEIS -- Sept. 29, 2000 FEIS -- Feb. 13, 2002 (assumes FEIS receipt by parties before Jan. 2, 2002)
Summary Disposition Motions Final Filing Date	Feb. 1, 2000	Dec. 30, 2000, except for Utah L, Basis B, which must be filed by Nov. 9, 2001	(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	Mar. 1, 2000	Feb. 9, 2001, except for Utah L, Basis B, which must be filed by Dec. 10, 2001	(a) June 25, 2001; (b) July 30, 2001; (c) Aug. 27, 2001
Board Summary Disposition Decision	Mar. 31, 2000	Apr. 30, 2001, except Utah L, Basis B, which is to be decided by Feb. 8, 2002	Nov. 16, 2001
Pre-filed Testimony Submitted	May 15, 2000	Utah K/Confederated Tribes B - Feb. 8, 2002 Utah L - Mar. 11, 2002	Mar. 18, 2002
In Limine Motions Due	May 31, 2000	Mar. 25, 2002	Apr. 1, 2002
Hearings (including limited appearance sessions as appropriate)	June 19 - June 30, 2000	Apr. 8 - 26, 2002	Apr. 15 - 26, 2002
Findings of Fact (Simultaneous filings)	July 31, 2000	June 7, 2002	June 7, 2002
Findings of Fact Responses (Simultaneous filings)	Aug. 28, 2000	July 8, 2002	July 8, 2002
Initial Decision	Oct. 30, 2000	Sept. 9, 2002	Sept. 9, 2002

¹ The outstanding contentions in Groups I-II/A are Utah E/Confederated Tribes F and Utah S.

² The outstanding contentions in Groups I-II/B are Utah K/Confederated Tribes B and Utah L.

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

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	
PRIVATE FUEL STORAGE L.L.C.)	Docket No. 72-22-ISFSI
)	
(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.

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
G. Paul Bollwerk, III, Chairman
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
Jerry R. Kline
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
Peter S. Lam
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Sherwin E. Turk, Esquire
Catherine L. Marco, Esquire
Office of the General Counsel
Mail Stop - 0-15 D21
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Diane Curran, Esquire
Harmon, Curran, Spielberg
& Eisenberg, L.L.P.
1726 M Street, NW, Suite 600
Washington, DC 20036

Joro Walker, Esquire
Director, Utah Office
Land and Water Fund of the Rockies
1473 South 1100 East, Suite F
Salt Lake City, UT 84105

Martin S. Kaufman, Esquire
Atlantic Legal Foundation
205 E. 42nd St.
New York, NY 10017

Docket No. 72-22-ISFSI
LB ORDER (REVISED GENERAL SCHEDULE)

Denise Chancellor, Esquire
Assistant Attorney General
Utah Attorney General's Office
160 East 300 South, 5th Floor
P.O. Box 140873
Salt Lake City, UT 84114

Jay E. Silberg, Esquire
D. Sean Barnett, Esquire
Shaw Pittman
2300 N Street, NW
Washington, DC 20037-1128

John Paul Kennedy, Sr., Esquire
David W. Tufts, Esquire
Confederated Tribes of the Goshute
Reservation and David Pete
Durham Jones & Pinegar
111 East Broadway, Suite 900
Salt Lake City, UT 84105

Richard Wilson
Department of Physics
Harvard University
Cambridge, MA 02138

Richard E. Condit, Esquire
Land and Water Fund of the Rockies
2260 Baseline Road, Suite 200
Boulder, CO 80302

Tim Vollmann, Esquire
3301-R Coors Road N.W., #302
Albuquerque, NM 87120

Larry EchoHawk, Esquire
Paul C. EchoHawk, Esquire
Mark A. EchoHawk, Esquire
EchoHawk PLLC
P.O. Box 6119
Pocatello, ID 83205-6119

[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 17th day of September 2001