

March 20, 2003

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
USNRC

Before the Atomic Safety and Licensing Board

March 25, 2003 (11:02AM)

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

In the Matter of )  
 )  
PRIVATE FUEL STORAGE L.L.C. )  
 )  
(Private Fuel Storage Facility) )  
ISFSI )

Docket No. 72-22-ISFSI

ASLBP No. 97-732-02-

**APPLICANT'S MOTION FOR CLARIFICATION AND  
SETTING OF TIME FOR FILING MOTIONS FOR RECONSIDERATION**

In its March 10, 2003, partial initial decision on Contention Utah K, the Atomic Safety and Licensing Board ("Board") ordered that (1) the parties are to file a joint report within 20 days outlining their positions regarding further proceedings on the issue of the consequences of an F-16 accident at the Skull Valley facility and (2) any party wishing to file a petition for review in accordance with 10 C.F.R. § 2.786 must do so within fifteen days after service of the decision. For calculating the filing date for petitions for review, the Board specified that its decision should be considered to have been served by regular mail, which adds another five days to the to the 15 day period for the filing of petitions for review. 10 C.F.R. § 2.106. Thus, both the petition for review and the joint report to the Board on litigating consequences are due on Monday, March 31, 2003. The Board's decision did not, however, specify any date for the filing of motions for reconsideration.

With a view towards the March 31 deadline, Private Fuel Storage, L.L.C. ("PFS") is in the process of evaluating how to best proceed with respect to the Board's March 10 decision. Among possible options is for PFS to seek reconsideration of the Board's decision in whole or in part. The regulations do not provide any time limit in which a party must file for reconsideration of a licensing board decision (although 10

days is specified for seeking reconsideration of a final Commission decision 10 C.F.R. § 2.771).<sup>1</sup> In the PFS case, the Board has at various times specified a date for the filing of motions for reconsideration. See, e.g., Private Fuel Storage, L.L.C. (Independent Spent Fuel Storage Installation), LBP-98-13, 47 NRC 360, 374 (1998); Private Fuel Storage, L.L.C. (Independent Spent Fuel Storage Installation), LBP-98-7, 47 NRC 142, 249 (1998).

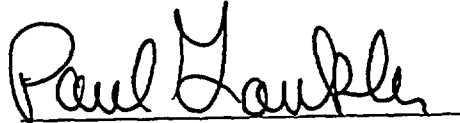
To allow PFS to consider reconsideration along with the other options for which the filing deadline is March 31, PFS requests the Licensing Board to clarify and to set March 31, 2003 as the filing deadline for any motions for reconsideration with respect to its March 10 decision.<sup>2</sup> Counsel for the State of Utah and counsel for the NRC Staff have both advised counsel for PFS that they have no objection to PFS's request to set March 31, 2003 as the filing deadline for motions for reconsideration with respect to the Board's March 10, 2003 partial initial decision, so long as they have 20 days to respond to any such motion (to which PFS does not object).

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<sup>1</sup> In two instances, a licensing board has by analogy considered 10 days to be the period for seeking reconsideration of licensing board decisions. See Georgia Power Co. (Vogtle Electric Generating Plant, Units 1 and 2), LBP-94-31, 40 NRC 137, 139-40 (1994); Cleveland Electric Power Co. (Perry Nuclear Power Plant, Units 1 & 2), LBP-82-110, 16 NRC 1895, 1896 (1982).

<sup>2</sup> Also, to better assess its options on how to proceed with the licensing of the PFS facility in light of the Board's March 10 decision, and the impacts of these options on the schedule for the licensing of the facility, it would be highly beneficial for PFS to know the resolution of the remaining outstanding contentions for which PFS understood the target decision date was middle to late February, then early March, and finally, as of March 10, "in the next few weeks." Accordingly, PFS also requests the issuance of those decisions as soon as possible.

Respectfully submitted,

A handwritten signature in black ink that reads "Paul Gaukler". The signature is written in a cursive style and is positioned above a horizontal line.

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CERTIFICATE OF SERVICE

I hereby certify that copies of the Applicant's Request for Clarification and Setting of Time for Filing Motions for Reconsideration were served on the persons listed below (unless otherwise noted) by e-mail with conforming copies by U.S. Mail, first class, postage prepaid, this 20th day of March, 2003.

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