

RAS 7206

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

DOCKETED 01/05/04

SERVED 01/05/04

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

January 5, 2004

MEMORANDUM

(Notice Regarding Issuance of Decision
Concerning Clarification/Reconsideration Motion)

In a decision this date, the Licensing Board has ruled on a June 6, 2003 motion filed by applicant Private Fuel Storage, L.L.C., (PFS) requesting clarification and/or reconsideration of the Board's May 27, 2003 memorandum and order ruling on a PFS summary disposition motion and other filings relating to the Commission's remand from CLI-00-13, 52 NRC 23 (2000), and a partial initial decision issued that same date regarding the merits of contention Utah E/Confederated Tribes F, Financial Assurance. In its decision today, the Board finds sufficient justification to warrant (1) clarification of license conditions LC-1 and LC-2 applicable to PFS so as to adopt the wording as endorsed or reworded by the Commission in CLI-00-13; and (2) reconsideration of the operations and maintenance dollar amount specified in ¶ 4.79 of its May 27, 2003 partial initial decision regarding contention Utah E/Confederated Tribes F. It thus grants the PFS reconsideration/clarification motion in those respects. However, because the Board finds that not establishing a specific dollar amount that the PFS service agreements

must cover would be inconsistent with the Commission directive in CLI-00-13, 52 NRC at 36, it denies the PFS motion in that regard.

At present, the Board's decision is being treated as not subject to public release. Accordingly, copies are being provided only to PFS, intervenor State of Utah (State) and the NRC staff.¹ In crafting its decision, however, the Board has attempted to minimize the use of proprietary information not subject to public disclosure in accordance with 10 C.F.R. § 2.790 so that its issuance, in substantial part, can be placed in the public record of this proceeding. In this regard, we have requested that these three parties inform the Board in a joint filing to be submitted by Tuesday, January 20, 2004, of their views as to which portions of the decision, if any, are not subject to public disclosure.

Once the Board has received responses to that initial filing from these parties regarding the efficacy of any proposed nondisclosures, which are due on Friday, January 30, 2004, it will make a final determination about whether its decision on the PFS clarification/reconsideration

¹ In accordance with the Board's orders on dissemination of documents containing proprietary information, PFS, the State, and the staff are being sent copies of the decisions by internet e-mail.

motion, or portions of that decision, can be made part of the public record of this proceeding.

The parties will be advised of the Board's ruling in this regard.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD²

/RA/

G. Paul Bollwerk, III
ADMINISTRATIVE JUDGE

Rockville, Maryland

January 5, 2004

² Copies of this memorandum 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; and (3) the staff.

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Installation))	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB MEMORANDUM (NOTICE REGARDING ISSUANCE OF DECISION CONCERNING CLARIFICATION/RECONSIDERATION MOTION) 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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Docket No. 72-22-ISFSI
LB MEMORANDUM (NOTICE REGARDING
ISSUANCE OF DECISION CONCERNING
CLARIFICATION/RECONSIDERATION MOTION)

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[Original signed by Adria T. Byrdsong]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 5th day of January 2004