

RAS 7314

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED 02/05/04
SERVED 02/05/04

ATOMIC SAFETY AND LICENSING BOARD
Before Administrative Judges:
Michael C. Farrar, Chairman
Dr. Peter S. Lam
Dr. Paul B. Abramson

In the Matter of

PRIVATE FUEL STORAGE, LLC

(Independent Spent Fuel Storage Installation)

Docket No. 72-22-ISFSI

ASLBP No. 97-732-02-ISFSI

February 5, 2004

ORDER CONVENING CONFERENCE CALL
(Regarding Contention Utah TT and Hearing Schedule)

The Board has recently received two documents related to the pending aircraft crash “consequences” issue: (1) the Applicant PFS’s January 30 revised crash evaluation report, which incorporates the RAI responses first filed with the NRC Staff on December 11; and (2) the Staff’s February 3 response to the State of Utah’s request for the admission of a new contention, denominated Utah TT, regarding changed aspects of the proposed spent fuel storage casks. Thus, after a long hiatus during which the proceeding’s prehearing/hearing schedule has been suspended at the Applicant’s request, it is now timely to convene a preliminary telephonic prehearing conference to plan further proceedings.

Accordingly, the Board will conduct a prehearing conference next Thursday, February 12, 2004, beginning at 1:00 P.M. Eastern Standard Time (11:00 A.M. MST) and lasting an hour or less. The Applicant, Staff and State will be informed by electronic mail of the access code for the call (which they may join by dialing 1-800-638-8081 or 301-231-5539) and should thereupon notify the Board Chairman (mcf@nrc.gov) of the identity of their representative(s) who will be participating. If any party is unable to participate at the scheduled time, that party should arrange with the other parties to conduct the call at a different time later that same day, and promptly inform the Board of the schedule change.

The Board intends to take up two matters during the conference call. The first concerns the "Safeguards" classification of the documents pertaining to the State's Contention TT (but not to any technical crash analysis which may relate to it), and will thus require the participation of the Staff's security expert Bernard Stapleton, who has been responsible for such classifications thus far. In that regard, the Board wishes to hear oral argument on the admissibility of that contention at a later time, which argument would involve discussion of the geometry of the cask and of the procedures for including the shims, but not of any crash analyses of the casks with the shims included. In order to conduct such argument by phone, which the Board wishes to do at an early date to be established during the February 12 call, it would be necessary to have a determination that such an argument would not embrace safeguards matters, and the Board wishes to discuss at next week's conference call whether such a determination can indeed be made.

The second matter involves the prehearing/hearing schedule for the accidental aircraft crash "consequences" issue itself. The parties should be prepared during the call to discuss, in preliminary fashion, estimates of the time the Staff may need to review the Applicant's recent filings and of the time required for subsequent steps in the prehearing/hearing process. The Board contemplates that, at the conclusion of the call, it will provide the parties guidance that will aid them in developing an agreed-upon schedule to submit for the Board's consideration during the subsequent conference call.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Rockville, Maryland
February 5, 2004

Michael C. Farrar, Chairman
ADMINISTRATIVE JUDGE

Copies of this Order were sent this date by Internet e-mail transmission to counsel for (1) Applicant PFS; (2) Intervenors Southern Utah Wilderness Alliance, Skull Valley Band of Goshute Indians, OGD, Confederated Tribes of the Goshute Reservation, and the State of Utah; and (3) the NRC Staff.

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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 ORDER CONVENING CONFERENCE CALL (REGARDING CONTENTION UTAH TT AND HEARING 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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(REGARDING CONTENTION UTAH TT AND
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[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

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