

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

RAS 8238

DOCKETED 08/06/04

ATOMIC SAFETY AND LICENSING BOARD
Before Administrative Judges:

SERVED 08/06/04

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

August 6, 2004

MEMORANDUM AND ORDER
(Summarizing August 3 Prehearing Conference Call)

This past Tuesday we held our final prehearing conference call in preparation for the several-week hearing on potential aircraft crash consequences that is set to begin next week. During the call, we discussed with the parties a number of logistical, procedural and substantive matters. In view of the imminence of the hearing, we pause to mention only two of those matters; the rest may be found in the Transcript.

1. We asked the Safeguards expert upon whose advice all have relied for some time whether certain determinations made in another setting might provide him a justification for allowing our hearing to be open to the public. Based upon his view that the Safeguards characterization remained applicable here, it was REAFFIRMED that our hearing had to be a closed one. Tr. at 15209-18.

2. We heard oral argument on the State's Motion to Strike the portion of the Applicant's pre-filed rebuttal testimony submitted by a previously-undisclosed witness who had not been subject to deposition. For the reasons stated orally, we DENIED the motion to strike but PROVIDED the State certain procedural options through which it could protect its interests. Tr. at 15241-59.

The Board ended the conference call by commending all counsel for their diligent effort and cooperative spirit, over many months, in complying with the prehearing schedule the Board adopted on April 19, 2004. Tr. at 15260. As a result, the hearing will be commencing as scheduled on Monday, August 9.

Under the current schedule, if all goes as envisioned (but see, e.g., Tr. at 15232, 15233), and if pending stipulations as to certain matters are confirmed (Tr. at 15221-22), the hearing would be conducted in three sessions totaling 15 days, concluding on September 15. Allowing the previously-discussed two months for the two sets of post-hearing filings by the parties, and the standard two months thereafter for the Board to complete its work, would yield a Board decision in mid-January.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD
/RA/

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Michael C. Farrar
ADMINISTRATIVE JUDGE

Rockville, Maryland
August 6, 2004

Copies of this Memorandum and 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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Installation))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB MEMORANDUM AND ORDER (SUMMARIZING AUGUST 3 PREHEARING CONFERENCE CALL) 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
(SUMMARIZING AUGUST 3 PREHEARING
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[Original signed by Emile L. Julian]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,

this 6TH day of August 2004