

RAS 9540

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED 03/11/05
SERVED 03/11/05

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

March 11, 2005

ORDER
REGARDING STATE'S MOTION FOR RECONSIDERATION
OF FINAL PARTIAL INITIAL DECISION

The Licensing Board has before it the State's March 7 Motion for Reconsideration. Assuming the continuing validity of the former Appeal Board's analysis in Consumers Power Co. (Midland Plant, Units 1 and 2), ALAB-235, 8 AEC 645, 646-47 (1974), the State's Motion would appear to have been properly and timely filed under 10 C.F.R. §§ 2.771(a) and 2.710.

As to the State's concurrent requests to us and to the Commission (see Motion, p. 10) for a correlative extension of time to file a Petition for Review, however, we deem that to be a matter for determination by the Commission, not by us. See, e.g., Midland, 8 AEC at 647-48, where an analogous motion was addressed by the Appeal Board, not by the Licensing Board.

The Applicant's and the Staff's responses to the pending State Motion for Reconsideration are to be in the Board's hands by close of business Monday, March 21. Cf. 10 C.F.R. §§ 2.771(b) and 2.710.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

By Michael C. Farrar, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
March 11, 2005

Copies of this Order were sent this date by Internet e-mail transmission to counsel for Applicant PFS, Intervenor State of Utah, and the NRC Staff.

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NUCLEAR REGULATORY COMMISSION

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)
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 ORDER REGARDING STATE'S MOTION FOR RECONSIDERATION OF FINAL PARTIAL INITIAL DECISION 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
Michael C. Farrar, Chairman
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
Paul B. Abramson
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
Laura C. Zaccari, Esquire
John T. Hull, 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
Western Resource Advocates
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 REGARDING STATE'S MOTION FOR
RECONSIDERATION OF FINAL PARTIAL INITIAL
DECISION

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

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

Paul C. EchoHawk, Esquire
ECHOHAWK LAW OFFICES
151 North 4th Avenue, Suite A
P.O. Box 6119
Pocatello, ID 83205-6119

Joseph R. Egan, Esquire
Martin G. Malsch, Esquire
Egan, Fitzpatrick, Malsch & Cynkar, PLLC
The American Center at Tysons Corner
8300 Boone Boulevard, Suite 340
Vienna, VA 22182

Stephen L. Simpson, Esquire
Office of the Solicitor
Department of the Interior
Division of Indian Affairs
1849 C Street, NW, Mailstop 6456-MIB
Washington, DC 20240

[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 11th day of March 2005