

RAS 9582

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED 03/22/05
SERVED 03/22/05

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 22, 2005

SCHEDULING MEMORANDUM AND ORDER

We received last evening the timely-filed answers of the Applicant and Staff to the State of Utah's March 7 Motion for Reconsideration of our February 24 aircraft crash consequences Partial Initial Decision. As our Scheduling Memorandum of March 16 indicated, the filing by the State of a reply to those answers appears not to be a matter of right. See 10 C.F.R. § 2.730(c); see generally 10 C.F.R. § 2.771. In any event, having now reviewed the Applicant's and Staff's answers, we believe that a resolution of this matter would be served by having the State submit a reply. As the parties were previously advised would be the case if we took this action, the State's reply is to be in our hands by the morning of Wednesday, March 30.

In light of the Applicant's and Staff's answering pleadings, the State's reply need not address any further the question of certain cask design changes that became the subject of the hearing (see State Motion, Part IV, § 1). Our eventual decision on the Motion will address that matter in a manner that incorporates what now seem to be the consistent views of the parties.

The State is free to reply to any other aspect of the answers, and we will welcome its response on all those matters. We are particularly interested, however, in its views on the matter covered in Part I of its motion, i.e., the import and effect of a loss of part of the overpack shielding. In that regard, in light of the Applicant's and Staff's answers on that score, the State should inform us with particularity as to any and all instances during the second phase of the

aircraft proceeding where it raised the issue of radiation dose limits being exceeded as a result of a reduction of the shielding provided by the overpack (rather than by way of breach of the internal canister). In addition, the State should advise us as to what procedural remedy we should employ if we find that matter to have been fairly raised but not properly addressed.

The parties are also advised that we have now determined, based on our review of the pleadings thus far before us, that our analysis and resolution of the matter would be aided by having counsel appear before us for oral argument. That oral argument will take place in our Rockville, Maryland hearing room on Wednesday, April 6 beginning at 1:00 PM and could last as long as three hours.

We will advise the parties later this week as to whether there are any specific areas upon which their oral presentations should particularly focus. As soon as a determination can be made, we will also advise them as to whether the argument is to be conducted without explicit reference to Safeguards-protected matters, so that it can be open to public observation.

It is so ORDERED.

THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Michael C. Farrar, Chairman
ADMINISTRATIVE JUDGE

/RA/

Peter S. Lam
ADMINISTRATIVE JUDGE

/RA/

Rockville, Maryland
March 22, 2005

Paul B. Abramson
ADMINISTRATIVE JUDGE

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

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
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 SCHEDULING MEMORANDUM AND ORDER 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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[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 22nd day of March 2005