

19008

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

ATOMIC SAFETY AND LICENSING BOARD

'98 MAY -1 P2:36

Before Administrative Judges:

G. Paul Bollwerk, III, Chairman
Dr. Jerry R. Kline
Dr. Peter S. Lam

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

SERVED MAY - 1 1998

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

May 1, 1998

ORDER

(Granting Motions to Extend Time
for Filing Reconsideration Motions
and Joint Status Report and
to Exceed Page Limitation)

Upon consideration of (1) the April 29, 1998 motions of applicant Private Fuel Storage, L.L.C. (PFS), and intervenor State of Utah (State) to exceed the Licensing Board's ten-page limit on motions by ten pages in connection with possible requests for reconsideration of the Board's April 22, 1998 memorandum and order, LBP-98-7, 47 NRC ____ (Apr. 22, 1998), and (2) the NRC staff's May 1, 1998 motion for adjustment of the filing schedule for reconsideration motions and the joint status report established in that issuance, see id. at ____ , ____ (slip op. at 162-64, 169), and there being no apparent opposition thereto,¹ it is

¹ Both the PFS and State motions to exceed the page
(continued...)

DS02

ORDERED, that the May 1, 1998 staff motion is granted in that any motions for reconsideration of LBP-98-7 shall be filed on or before Wednesday, May 6, 1998; and it is

FURTHER ORDERED, that the April 29, 1998 PFS and State motions to exceed the ten-page limit are granted in that any motion for reconsideration filed by these parties may be up to and including twenty pages in length.

The Board advises the parties of the following preliminary schedule relative to reconsideration motion responses and the joint status report:

Wednesday, May 13, 1998 -- Reconsideration Motion Responses (each party to file a single consolidated response)

Friday, May 15, 1998 -- Joint Status Report²

(...continued)

limit indicate there was no objection to their requests from the parties they were able to contact. They also reflect unsuccessful attempts to contact at least one other party to ascertain its position on their respective motions. In accordance with our February 2, 1998 issuance, see Licensing Board Memorandum and Order (Memorializing Initial Prehearing Conference Directives) (Feb. 2, 1998) at 4-5, having heard nothing from these parties by close of the next business day after the State and PFS motions were filed, we will assume these parties do not intend to oppose the motions.

With respect to the staff's motion to extend the deadline for filing reconsideration motions and the joint status report, it was unable to contact one party to ascertain its position. We nonetheless will act on the motion because, in this instance, we are unable to envision any prejudice to that intervenor in light of our determination to extend the filing deadline for all parties.

² This deadline extension includes the time for filing the issues designation pleading of the Skull Valley Band of
(continued...)

ORDERED, that the May 1, 1998 staff motion is granted in that any motions for reconsideration of LEP-98-7 shall be filed on or before Wednesday, May 6, 1998; and it is

FURTHER ORDERED, that the April 29, 1998 PFS and State motions to exceed the ten-page limit are granted in that any motion for reconsideration filed by these parties may be up to and including twenty pages in length.

The Board advises the parties of the following preliminary schedule relative to reconsideration motion responses and the joint status report:

Wednesday, May 13, 1998 -- Reconsideration Motion Responses (each party to file a single consolidated response)

Friday, May 15, 1998 -- Joint Status Report²

(...continued)

limit indicate there was no objection to their requests from the parties they were able to contact. They also reflect unsuccessful attempts to contact at least one other party to ascertain its position on their respective motions. In accordance with our February 2, 1998 issuance, see Licensing Board Memorandum and Order (Memorializing Initial Prehearing Conference Directives) (Feb. 2, 1998) at 4-5, having heard nothing from these parties by close of the next business day after the State and PFS motions were filed, we will assume these parties do not intend to oppose the motions.

With respect to the staff's motion to extend the deadline for filing reconsideration motions and the joint status report, it was unable to contact one party to ascertain its position. We nonetheless will act on the motion because, in this instance, we are unable to envision any prejudice to that intervenor in light of our determination to extend the filing deadline for all parties.

² This deadline extension includes the time for filing the issues designation pleading of the Skull Valley Band of
(continued...)

Upon receipt of the reconsideration motions, the Board will establish (1) a final schedule for responsive filings and the joint status report, and (2) a page limitation for party consolidated reconsideration motion responses.

As with the joint status report, see LBP-98-7, 47 NRC at ____ (slip op. at 165), reconsideration motions and responses should be served on the Board, the Office of the Secretary, and counsel for the other parties by e-mail, facsimile transmission, or other means that will ensure receipt by close of business (4:30 p.m. EDT) on the day of filing.

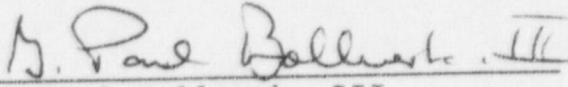
The prehearing conference remains scheduled for Tuesday, May 19, 1998, at the Rockville, Maryland and Salt Lake City, Utah locations specified in LBP-98-7, 47 NRC at ____ (slip op. at 164). The Board has not yet heard from the Skull Valley Band of Goshute Indians (Skull Valley Band), Ohngo Gaudadeh Devia (OGD), and the Confederated Tribes of the Goshute Reservation (Confederated Tribes) as to whether they intend to participate in person in Rockville or by teleconference from Salt Lake City. They should advise the Board of their intentions immediately.

Finally, with regard to future requests to exceed the ten-page limit on motions, as well as requests to file

²(...continued)
Goshute Indians and any requests for revision of lead party designations. See LBP-98-7, 47 NRC at ____ (slip op. at 163).

motion replies, see 10 C.F.R. § 2.730(c), as with time extension motions, see id. § 2.711, a party should make a showing of good cause in support of its motion.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD³


G. Paul Bollwerk, III
ADMINISTRATIVE JUDGE

Rockville, Maryland

May 1, 1998

³ Copies of this order were sent this date to counsel for applicant PFS, and to counsel for intervenors Skull Valley Band, Scientists for Secure Waste Storage, OGD, Confederated Tribes, Castle Rock Land and Livestock, L.C., et al., and the State by Internet e-mail transmission; and to counsel for the staff by e-mail through the agency's wide area network system.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of

PRIVATE FUEL STORAGE, LLC

(Independent Spent Fuel Storage
Installation)

Docket No.(s) 72-22-ISFSI

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB ORDER GRANTING MOTIONS... have been served upon the following persons by U.S. mail, first class, except as otherwise noted and in accordance with the requirements of 10 CFR Sec. 2.712.

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
G. Paul Bollwerk, III, Chairman
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Jerry R. Kline
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Peter S. Lam
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Sherwin E. Turk, Esq.
Catherine L. Marco, Esq.
Office of the General Counsel
Mail Stop - O-15 B18
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Diane Curran, Esq.
Harmon, Curran, Spielberg & Eisenberg
2001 S Street, N.W., Suite 430
Washington, DC 20009

Martin S. Kaufman, Esq.
Atlantic Legal Foundation
205 E. 42nd St.
New York, NY 10017

Joro Walker, Esq.
Land and Water Fund of the Rockies
165 South Main, Suite 1
Salt Lake City, UT 84111

Docket No.(s)72-22-ISFSI
LB ORDER GRANTING MOTIONS...

Denise Chancellor, Esq.
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, Esq.
Shaw, Pittman, Potts and Trowbridge
2300 N Street, NW
Washington, DC 20037

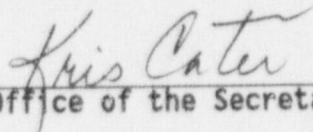
John Paul Kennedy, Esq.
Confederated Tribes of the Goshute
Reservation and David Pete
1385 Yale Avenue
Salt Lake City, UT 84105

Clayton J. Parr, Esq.
Castle Rock, et al.
Parr, Waddoups, Brown, Gee & Loveless
185 South State Street, Suite 1300
Salt Lake City, UT 84111

Danny Quintana, Esq.
Skull Valley Band of Goshute Indians
Danny Quintana & Assocs., P.C.
50 West Broadway, Fourth Floor
Salt Lake City, UT 84101

Richard Wilson
Department of Physics
Harvard University
Cambridge, MA 02138

Dated at Rockville, Md. this
1 day of May 1998


Office of the Secretary of the Commission