

21197

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
USMRC

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

'00 FEB -2 P1:56

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

OFFICE OF SECRETARY  
RULEMAKING AND  
ADJUDICATIONS STAFF

**SERVED FEB - 2 2000**

In the Matter of

Docket No. 72-22-ISFSI

PRIVATE FUEL STORAGE, L.L.C.

ASLBP No. 97-732-02-ISFSI

(Independent Spent Fuel  
Storage Installation)

February 2, 2000

ORDER

(General Schedule Revision  
and Other Matters)

Upon consideration of (1) the January 20, 2000 joint status report of applicant Private Fuel Storage, L.L.C., (PFS), intervenor State of Utah (State), and the NRC staff regarding scheduling matters; (2) the January 24, 2000 joint request of PFS and the State for modifications to the discovery schedule relative to depositions regarding contentions Utah E/Confederated Tribes F, Utah H, Utah L, Utah GG, and Security-C; (3) the January 26, 2000 State motions for admission of late-filed modifications to contentions Utah E/Confederated Tribes F, Utah L, and Utah S; (4) the Board's January 27, 2000 telephone conference with the parties to discuss scheduling and other

DS02

matters,<sup>1</sup> see Tr. at 1253-87; (5) the February 1, 2000 joint request of PFS and the State to modify the deposition schedule for contention Utah H; and (6) the February 1, 2000 unopposed request of PFS to exceed the page limitation for its response to the January 26, 2000 State motion to admit late-filed modifications to contention Utah E/Confederated Tribes F; it is

ORDERED, that the January 24 and February 1, 2000 PFS/State joint requests for modifications to the discovery schedule regarding depositions concerning contentions Utah E/Confederated Tribes F, Utah H, Utah L, Utah GG, and Security-C are granted in that (1) PFS and the State may conduct the depositions of witnesses Dr. Marvin Resnikoff, Matthew R. Lamb, Dr. Kris Singh, and Dr. Indresh Rampall regarding contention Utah H on or before Thursday, March 9, 2000; (2) relative to contention Security-C, PFS and State depositions of newly identified witnesses Frank Scharmann and Roy Mackay are permitted on or before Friday, February 18, 2000; and (3) any depositions relative to contention Utah E/Confederated Tribes F and Utah GG are deferred pending Board rulings on the pending PFS motions

---

<sup>1</sup> Although this conference was originally scheduled for January 26, 2000, the date was changed because federal government offices in the Washington, D.C. metropolitan area were closed in the aftermath of a January 25, 2000 snow storm.

for summary disposition regarding these contentions; and it is

FURTHER ORDERED, that responses and replies to the State's January 26, 2000 motions for admission of late-filed modifications to contentions Utah E/Confederated Tribes F, Utah L, and Utah S are permitted on or before the following dates:

	<u>Party Response</u>	<u>State Reply</u> <sup>2</sup>
Utah E	Friday, February 4, 2000	Friday, February 11, 2000
Utah S	Wednesday, February 9, 2000	Wednesday, February 16, 2000
Utah L	Monday, February 14, 2000	Tuesday, February 22, 2000

and it is

FURTHER ORDERED, that the February 1, 2000 PFS request to exceed the page limitation for its response to the State's January 26, 2000 motion for admission of late-filed modifications to contention Utah E/Confederated Tribes F is granted in that party responses and the State's reply to those responses shall not exceed twenty pages in length; and it is

---

<sup>2</sup> During the January 27, 2000 telephone prehearing conference, in response to a Board inquiry, the State indicated it wished to have an opportunity to file a reply to any responses to its January 26 late-filed contention admission requests, a request that none of the other parties opposed. See Tr. at 1278-81.

FURTHER ORDERED, that the general schedule for this proceeding is revised as is reflected in attachment A to this issuance;<sup>3</sup> and it is

FURTHER ORDERED, relative to the summary disposition page limits established in the Board's August 20, 1998 memorandum and order, see Licensing Board Memorandum and Order (Additional General Schedule Guidance and Informal Discovery Status Conference Schedule) (Aug. 20, 1998) at 6-7 (unpublished), those restrictions are revised as follows:<sup>4</sup>

Contention

Dispositive Motion Page Limitation

Utah L

Maximum motion length twenty pages for motion filed on or before final filing date.

Utah K/Confederated Tribes B; Group III contentions

Maximum motion length (1) twenty pages for motions filed thirty days or more before final filing date; (2) fifteen pages for motions filed

---

<sup>3</sup> The schedule changes adopted here are based on a proposed schedule developed jointly by the parties and provided by the staff to the Board just prior to the January 27, 2000 prehearing conference. The schedule revisions reflect, among other things, the need to defer hearings on contentions Utah K and Utah L because of the staff's need to obtain further information from PFS relative to those contentions, as is outlined in the January 20, 2000 joint report. The schedule revisions do not result in any change in the previously established November 30, 2001 date for issuance of a final initial decision.

<sup>4</sup> These page limitation revisions were suggested by the parties as part of the proposed schedule provided by the staff just prior to the January 27, 2000 teleconference, which in connection with contention Utah K/Confederated Tribes B included the caveat that the revised page limitation schedule would apply "[t]o the extent that Board approval is not required to file" a summary disposition motion regarding that contention.

less than thirty and more than fifteen days before final filing date; and (3) ten pages for motions filed fifteen days or less before final filing date

and it is

FURTHER ORDERED, that the provision of the Board's December 31, 1997 issuance requiring overnight mail service of pleadings containing proprietary information, see Licensing Board Order (Granting Leave to File Response to Contentions and Schedule for Responses to Late-Filed Contentions) (Dec. 31, 1997) at 2-3 & n.1 (unpublished), see also Licensing Board Memorandum and Order (Protective Order and Schedule for Filing Security Plan Contentions) (Dec. 17, 1997) at 8, 9 (unpublished); Licensing Board Memorandum and Order (Additional Amendments to Protective Order) (Dec. 23, 1997) at 2 (unpublished), is amended to permit PFS and the State to serve pleadings containing proprietary information by facsimile transmission or e-mail on the Board and the

party representatives who are authorized to have access to such information.<sup>5</sup>

FOR THE ATOMIC SAFETY  
AND LICENSING BOARD<sup>6</sup>



---

G. Paul Bollwerk, III  
ADMINISTRATIVE JUDGE

This order is issued pursuant to the authority of the Chairman of the Atomic Safety and Licensing Board designated for this proceeding.

Rockville, Maryland

February 2, 2000

---

<sup>5</sup> This change reflects the agreement of PFS, which is the source of the proprietary protection claims for various types of information being used in this proceeding, to allow facsimile and internet transmission of State filings containing that information. Although during the January 27, 2000 telephone conference PFS indicated its willingness to allow the staff (and presumably the Board) to send filings containing information it claims is proprietary to PFS and the State by facsimile or e-mail transmission, at the Board's suggestion the staff indicated it would check with agency security officials to ensure such a staff transmission would not violate any agency information transfer protocols. See Tr. at 1265-68. Once the staff advises the Board that agency security officials find this PFS permission is adequate to permit staff use of facsimile and internet transmission, the Board is prepared to issue a similar revision of the existing service limitation relative to the staff.

<sup>6</sup> Copies of this order were sent this date by Internet e-mail transmission to counsel for (1) applicant PFS; (2) intervenors Skull Valley Band of Goshute Indians, Ohngo Gaudadeh Devia, Confederated Tribes of the Goshute Reservation, Southern Utah Wilderness Alliance, and the State; and (3) the staff.

**ATTACHMENT A**

PRIVATE FUEL STORAGE PROCEEDING GENERAL SCHEDULE -- As revised 2/2/00

EVENT	GROUPS I-II/A <sup>1</sup>	GROUPS I-II/B <sup>2</sup>	GROUP III <sup>3</sup>
Informal Discovery Begins -- All Parties	May 19, 1998	May 19, 1998	May 19, 1998
Informal Discovery Closes -- All Parties	February 28, 1999	February 28, 1999	February 28, 1999
Staff Position on Contentions	December 15, 1999	April 28, 2000	DEIS -- May 2000 FEIS -- February 2001
Formal Discovery Begins -- All Parties	March 1, 1999	March 1, 1999	March 1, 1999, except (1) DEIS-related discovery against Staff - August 15, 2000; and (2) FEIS-related discovery against Staff -- begins on FEIS issuance date
Formal Discovery Ends -- All Parties Except Against Staff	May 28, 1999, subject to a November 15, 1999 (against the Staff - December 15, 1999) - January 31, 2000 limited discovery window	May 28, 1999, subject to a limited window for (1) Utah L depositions (August 15 - September 29, 2000) and (2) discovery against the Staff (begins September 15, 2000)	May 28, 1999, subject to January 16 - March 15, 2001 limited discovery window
Formal Discovery Ends -- Against Staff	February 15, 2000	October 30, 2000	DEIS -- September 29, 2000 FEIS -- April 13, 2001
Summary Disposition Motions Final Filing Date	February 1, 2000	October 10, 2000	March 15, 2001
Summary Disposition Motion Responses Final Filing Date	March 1, 2000	November 10, 2000	April 13, 2001
Board Summary Disposition Decision	March 31, 2000	December 11, 2000	May 11, 2001
Pre-filed Testimony Submitted	Security C - February 29, 2000 All Others - May 15, 2000	January 15, 2001 (hearing deferred to July 2001)	June 11, 2001
In Limine Motions Due	Security C - March 7, 2000 All Others - May 31, 2000	June 25, 2001	June 25, 2001
Hearings (including limited appearance sessions as appropriate)	Security C - March 14-15, 2000 All Others - June 19 - June 30, 2000	July 9 - August 3, 2001	July 9 - August 3, 2001
Findings of Fact (Simultaneous filings)	Security C - March 29, 2000 All Others - July 31, 2000	September 7, 2001	September 7, 2001
Findings of Fact Responses (Simultaneous filings)	Security C - April 7, 2000 All Others - August 28, 2000	October 1, 2001	October 1, 2001
Initial Decision	Security C - June 2, 2000 All Others - October 30, 2000	November 30, 2001	November 30, 2001

<sup>1</sup> The contentions in Groups I-II/A include Utah E/Confederated Tribes F; Utah H; Utah R; Utah S; Utah GG, Security-C.

<sup>2</sup> The contentions in Groups I-II/B include Utah K/Confederated Tribes B and Utah L.

<sup>3</sup> The contentions in Group III include Utah O; Utah T; Utah U; Utah V; Utah W; Utah Z; Utah AA; Utah DD; OGD O; and SUWA B.



**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 ORDER--GEN. SCHEDULE REVISION 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 - 0-15 D21  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555**

**Diane Curran, Esq.  
Harmon, Curran, Spielberg  
& Eisenberg, L.L.P.  
1726 M Street, NW, Suite 600  
Washington, DC 20036**

**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  
2056 East 3300 South, Suite 1  
Salt Lake City, UT 84109**

**Docket No.(s)72-22-ISFSI  
ORDER--GEN. SCHEDULE REVISION**

**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  
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**

**Richard E. Condit, Esq.  
Land and Water Fund of the Rockies  
2260 Baseline Road, Suite 200  
Boulder, CO 80302**

**Danny Quintana, Esq.  
Skull Valley Band of Goshute Indians  
Danny Quintana & Assocs., P.C.  
68 South Main Street, Suite 600  
Salt Lake City, UT 84101**

**Richard Wilson  
Department of Physics  
Harvard University  
Cambridge, MA 02138**

**Dated at Rockville, Md. this  
2 day of February 2000**

  
**Office of the Secretary of the Commission**