



NRC NEWS

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NRC LICENSING BOARD FINDS IN FAVOR OF COMPANY IN PFS CASE; DECISION NOW GOES TO COMMISSION

The Atomic Safety and Licensing Board, an independent judicial arm of the Nuclear Regulatory Commission, issued a decision today on the last issue before it on the spent nuclear fuel storage facility proposed for Skull Valley, Utah, by the Private Fuel Storage (PFS) consortium. By a 2-1 vote, the Board ruled in favor of PFS, rejecting the State of Utah's assertions that there is too high a probability that a radiation release could be caused by the accidental crash of one of the 7,000 flights made down Skull Valley every year by F-16 single-engine jets from Hill Air Force Base.

With the Licensing Board's role now completed, the determination whether to issue the requested license now goes to the five Commissioners who head the NRC, who will also hear any appeals.

The PFS facility would be located on the Reservation of the Skull Valley Band of Goshute Indians, about 50 miles southwest of Salt Lake City. The proposed above-ground facility, whose principal opponent is the State of Utah, is intended for temporary storage of the waste fuel from U.S. nuclear power plants.

During a formal 16-day trial which ended in mid-September 2004, the Licensing Board had heard expert witnesses and received documentary evidence from the Applicant PFS, the NRC Staff, and the State of Utah on (1) the strength of the steel and concrete outer casks and the stainless steel inner canisters holding the spent fuel and (2) the speeds and angles at which F-16s have previously crashed around the world. The Board majority concluded that the probability of a crash at a speed and angle sufficient to breach one of the stainless steel canisters holding spent nuclear fuel was less than one-in-a-million per year. Under the NRC's standards, a facility like PFS does not have to be designed against such an unlikely accident.

Nearly two years ago, the Licensing Board had upheld the State's initial argument, blocking issuance of the PFS license, by finding that the probability of an accidental F-16 crash onto the proposed site was too high unless it could be shown that such a crash would have no adverse radiological consequences. The Applicant's appeal of that decision to the Commission was held in abeyance pending the second phase of the F-16 crash inquiry.

Earlier today, the Licensing Board also issued in the PFS matter an unrelated decision declining to consider a new contention the State had recently filed, after the aircraft hearing had been closed, based on remarks assertedly made by an official of the U.S. Department of Energy concerning the ultimate fate of spent fuel stored at the proposed PFS facility. The Board determined that at this late stage, and in light of DOE documents that contradicted the remarks, it would not reopen the hearing record to adjudicate the matter, which it indicated was instead worthy of attention by the Commission.

The full reasoning justifying the Licensing Board's F-16 accident decision cannot be released because it contains non-publicly-available (Safeguards Information) facts and analyses concerning the impact of plane crashes on concrete and steel objects. For that same reason, the evidentiary hearing had been closed to the public.

The Board did prepare a version of its opinion that sets forth only a general summary of those aspects of its reasoning, and that version is being made publicly available. A copy of that 68-page version may be obtained from the NRC's web site at <http://www.nrc.gov/what-we-do/regulatory/adjudicatory/pfs-aircraft05.pdf>.

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