

RAS 1786

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

DOCKETED 06/07/00

SERVED 06/07/00

Before Administrative Judges:

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

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

June 7, 2000

MEMORANDUM AND ORDER
(Setting Schedule for Supplement and
Responses to Late-Filed Intervention Petition)

By letters to the Office of the Secretary and the Licensing Board dated May 26 and May 31, 2000, and a pleading entitled "Petition to Intervene" and "Complaint" dated June 5, 2000, petitioner William D. Peterson apparently is seeking party status in this proceeding as a late-filed intervenor. In his May 31, 2000 filing, petitioner Peterson has attempted to address the five late-filing factors in 10 C.F.R. § 2.714(a)(1). He has not, however, complied with the requirement of 10 C.F.R. § 2.714(b)(2) that he provide a statement of the contentions (with supporting bases) that he wishes to have admitted to this proceeding for litigation.

Accordingly, petitioner Peterson shall have up to and including Wednesday, June 28, 2000, within which to provide the Board and the existing parties with a list of the contentions he wishes to litigate in this proceeding, as well as any additional information he wishes to supply regarding his standing to intervene or the application of the 10 C.F.R. § 2.714(a)(1) late-filing factors. Thereafter, the parties to this proceeding shall have up to and including Wednesday,

July 12, 2000, within which to respond to petitioner Peterson's intervention petition and contentions supplement.

The Board notes that, following discussions with the Office of the Secretary and the Licensing Board Panel's Chief Counsel, petitioner Peterson apparently made some attempt to provide copies of some of his May and June submissions to some of the parties to this proceeding. To ensure that all parties have access to those pleadings, copies are included with this memorandum and order as Attachments 1-3. Petitioner Peterson is advised that all future pleadings must be provided to the Board, the Office of the Secretary, and the other parties in accordance with the following guidance:

Party filings should be served on the Board, the Office of the Secretary, and counsel for the other participants by facsimile transmission, e-mail, or other means that will ensure receipt by midnight Eastern Time (ET) on the day of filing. See Licensing Board Memorandum and Order (Initial Prehearing Order) (Sept. 23, 1997) at 5-6 (unpublished); Licensing Board Memorandum and Order (Additional Guidance on Service Procedures) (Nov. 19, 1997) (unpublished); Licensing Board Memorandum and Order (Schedule for Telephone Conference and Directives Regarding Expedited Service) (Sept. 2, 1998) at 2-3 (unpublished). Additionally, paper copies of those pleadings should be served on that same date on the Office of the Secretary (original and two copies), the three members of the Licensing Board, and counsel for each of the parties.

Failure to follow these service directives may result in the rejection of a pleading or other appropriate sanctions.

Also, if petitioner Peterson wishes to be represented by counsel, on or before Wednesday, June 28, 2000, his attorney should file a notice of appearance in accordance with 10 C.F.R. § 2.713.

Finally, in his May 26, 2000 letter, petitioner Peterson seeks subpoenas to compel testimony from various individuals, a request he reiterates in his June 5, 2000 intervention petition. It is well established that party discovery is not appropriate in agency adjudicatory proceedings regarding licensing actions until a petitioner has been found to meet the

section 2.714 requirements for standing and contentions so as to be admitted as a party. See 10 C.F.R. § 2.740(b)(1). Accordingly, petitioner Peterson's requests for subpoenas are denied.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD*

/RA/

G. Paul Bollwerk, III
ADMINISTRATIVE JUDGE

Rockville, Maryland

June 7, 2000

*Copies of this memorandum and order were sent this date by Internet e-mail transmission to counsel for (1) applicant Private Fuel Storage, L.L.C.; (2) intervenors Skull Valley Band of Goshute Indians, Ohngo Gaudadeh Devia, Confederated Tribes of the Goshute Reservation, Southern Utah Wilderness Alliance, and the State of Utah; (3) petitioner Peterson; and (4) the NRC staff.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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PRIVATE FUEL STORAGE, L.L.C.)	Docket No. 72-22-ISFSI
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(Independent Spent Fuel Storage)	
Installation))	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB MEMORANDUM AND ORDER (SETTING SCHEDULE FOR SUPPLEMENT AND RESPONSES TO LATE-FILED INTERVENTION PETITION) 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

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, Esquire
Catherine L. Marco, Esquire
Office of the General Counsel
Mail Stop - 0-15 D21
U.S. Nuclear Regulatory Commission
Washington, DC 20555

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

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

Joro Walker, Esquire
Land and Water Fund of the Rockies
2056 East 3300 South, Suite 1
Salt Lake City, UT 84109

Docket No. 72-22-ISFSI
LB MEMORANDUM AND ORDER
(SETTING SCHEDULE FOR
SUPPLEMENT AND RESPONSES
TO LATE-FILED INTERVENTION PETITION)

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

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

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

William D. (Bill) Peterson
Pigeon Spur Fuel Storage Facility
2127 Lincoln Lane
Holladay, UT 84124

Jay E. Silberg, Esquire
Shaw Pittman
2300 N Street, NW
Washington, DC 20037

Richard Wilson
Department of Physics
Harvard University
Cambridge, MA 02138

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

[Original signed by Adria T. Byrdsong]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 7th day of June 2000