

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

\_\_\_\_\_  
In the Matter of: )  
)

Private Fuel Storage, L.L.C., )  
(Independent Spent Fuel Storage )  
Installation) )  
\_\_\_\_\_)

Docket No. 72-22

MOTION OF PETITIONERS CASTLE ROCK LAND & LIVESTOCK, L.C. AND  
SKULL VALLEY CO., LTD. FOR LEAVE TO REPLY TO THE NRC STAFF'S AND  
PRIVATE FUEL STORAGE, LLC'S RESPONSE TO PETITIONER'S CONTENTIONS.

The Nuclear Regulatory Commission Staff (the "Staff") and Private Fuel Storage, LLC ("PFS") filed responses to the Contentions of Castle Rock Land & Livestock, L.C. and Skull Valley Co., Ltd ("Castle Rock") on December 24, 1997. Castle Rock received a copy of the Staff's and PFS's responses on Monday, December 29, 1997. Castle Rock hereby moves for leave to reply to the Staff's and PFS's responses to Contentions.

Castle Rock's motion to submit a reply to the Staff's and PFS's responses is consistent with both Nuclear Regulatory Commission ("Commission") precedent and the purposes of the pre-hearing process. In Long Island Lighting Company (Shoreham Nuclear Power Station), LBP-81-18, 14 NRC 71, 1981 NRC LEXIS 97 (1981), the Commission explained:

Insofar as contentions are concerned, the intervenors must be heard in response because they cannot be required to have anticipated in the contentions themselves the possible arguments their opponents might raise as grounds for dismissing them. . . . Before any suggestion that a contention should not be entered can be acted upon favorably, the proponent of the contentions must be given some chance to be heard in response.

Id. at \*5 (quoting Houston Lighting and Power Company (Allens Creek Nuclear Generating Station, Unit 1), ALAB-565, 10 NRC 521 (1979)); see also In the Matter of Georgia Power Co.

(Vogle Electric Generating Plant, Units 1 and 2, 40 N.R.C. 37 (1994). Furthermore, as explained in the Commission release accompanying the rules governing petitions to intervene, the purpose of the pre-hearing process is to "crystalliz[e] disputes at an early stage in the proceeding, thereby improving the efficiency and quality of the hearing process." 54 Fed. Reg. 33168, 33169 (1989). In this case, PFS has filed a 672 page response to the contentions of the petitioners, and the staff has filed a 136 page response. Although the pre-hearing conference is scheduled for January 27 - 29, 1997, granting Castle Rock an opportunity to reply to the assertions and arguments of the Staff and PSF is appropriate in order to crystallize and narrow the numerous issues to be discussed at the pre-hearing conference and litigated throughout the proceeding. Moreover, the existence of a written reply will better facilitate complete understanding and recall of Castle Rock's arguments than a mere oral reply at the pre-hearing conference. Accordingly, Castle Rock requests leave to reply in a brief to be filed by January 22, 1998, or such other date as the License Board may designate in its order granting this motion.

DATED this 31<sup>st</sup> day of December, 1997.

Respectfully submitted,



Michael M. Later, USB # 3728

Bryan T. Allen, USB #7127

PARR, WADDOUPS, BROWN, GEE & LOVELESS

Attorneys for Petitioners

185 S. State Street, Suite 1300

Salt Lake City, UT 84111-1536

Telephone: (801) 532-7840

Facsimile: (801) 532-7750

E-Mail: karenj@pw.law.com

Certificate of Mailing

I hereby certify that I caused to be sent by E-Mail and first class postage prepaid, a copy of the foregoing MOTION FOR LEAVE TO REPLY to the following:

Dr. Jerry R. Kline  
Administrative Judge  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001  
E-Mail: jrk2@nrc.gov

G. Paul Bollwerk, III, Chairman  
Administrative Judge  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001  
E-Mail: gpb@nrc.gov

Dr. Peter S. Lam  
Administrative Judge  
Atomic Safety and Licensing Board  
U. S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
E-Mail: psl@nrc.gov

James M. Cutchin  
Atomic Safety and Licensing Board Panel  
U. S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001  
E-Mail: jmc3@nrc.gov  
(*electronic copy only*)

and also certify that I caused to be sent by express mail, a copy of the foregoing to the following:

Secretary of the Commission  
ATTN: Docketing & Services Branch  
U. S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
(*original + two copies*)

Jay E. Silberg, Esq.  
Shaw, Pittman, Potts & Trowbridge  
2300 N. Street N.W.  
Washington, DC 20037-8007  
Fax: (202) 663-8007

Office of the Secretary  
ATTN: Rulemakings and Adjudications Staff  
U. S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Jean Belille, Esq.  
Land and Water Fund of the Rockies  
2260 Baseline Road, Suite 200  
Boulder, Colorado 80302  
Fax: (303) 786-8054  
E-Mail: landwater@lawfund.org

Sherwin E. Turk, Esq.  
Catherine L. Marco, Esq.  
Office of General Counsel  
U.S. Nuclear Regulatory Commission  
Mail Stop: 0-15 B18  
Washington, DC 20555  
Fax: (301) 415-3725

and also certify that I caused to be hand delivered a copy of the foregoing to the following:


Danny Quintana, Esq.  
Danny Quintana & Associates, P.C.  
50 West Broadway, Fourth Floor  
Salt Lake City, UT 84101  
Fax: (801) 363-7726

Denise Chancellor  
Assistant Attorney General  
Utah Attorney General's Office  
P. O. Box 140873  
160 E. 300 S., #500  
Salt Lake City, UT 84114-0873  
Fax: (801) 366-0292/0293

Connie Nakahara, Esq.  
Utah Dept. of Environmental Quality  
168 North 1950 West  
P. O. Box 144810  
Salt Lake City, UT 84114-4810  
Fax: (801) 536-4401

John Paul Kennedy, Sr., Esq.  
1385 Yale Avenue  
Salt Lake City, UT 84105  
Fax: (801) 581-1007

Dated this 31<sup>st</sup> day of December, 1997.

  
\_\_\_\_\_  
DeAnn Thompson