

DANNY QUINTANA & ASSOCIATES, P.C.

Attorneys at Law
Fourth Floor
50 West Broadway
Salt Lake City, Utah 84101

(801)363-7726
Fax (801)521-4625

February 13, 1998

G. Paul Bollwerk, III, Chairman
Administrative Judge
Atomic Safety and Licensing Board
U. S. Nuclear Regulatory Commission
Washington, D.C. 20555

Re: The matter of Private Fuel Storage L. L. C.

Dear Mr. Bollwerk;

Please find enclosed a copy of the RESPONSE OF THE SKULL VALLEY BAND OF GOSHUTES TO PETITION OF THE SCIENTISTS FOR SECURE NUCLEAR WASTE STORAGE regarding the matter mentioned above.

If you have any questions or need further information do not hesitate to contact this office. Thank you.

Sincerely,



Wynne Parry
Secretary

DQ/wp
enc.

**United States Of America
Nuclear Regulatory Commission
Before the Atomic Safety and Licensing Board**

In the matter of)	
)	
Private Fuel Storage L.L.C.)	Docket No. 72-22
)	
(Private Fuel Storage Facility))	ASLBP No. 97-732-02-ISPSI

**RESPONSE OF SKULL VALLEY BAND OF GOSHUTES TO
PETITION OF THE SCIENTISTS FOR SECURE NUCLEAR WASTE STORAGE**

The Scientists for Secure Waste Storage have petitioned to intervene in the above-entitled proceedings. These scientists are independent of Private Fuel Storage, LLC, the Skull Valley Band of Goshutes, ("Band") and all other parties who have sought to intervene. The Band fully support this proposed intervention for several reasons:

FACTS IN SUPPORT OF INTERVENTION

This administrative body can take judicial notice that the public has little understanding of nuclear issues. The misperception of this project to temporarily store spent fuel on the Skull Valley Goshute Reservation exists in part by the political rhetoric of Utah politicians. Governor Leavitt has gone on record stating that this facility will be built "over his dead body." Congressman Cook has made repeated reference to his attempts to stop this "deadly" nuclear waste from coming to Utah. Former Representative Moody suggested that military tanks be placed in front of the Goshute Reservation to prevent the shipments to the proposed site. These and similar statements created an atmosphere of fear and confusion surrounding this important energy issue.

The 17 internationally acclaimed scientists, six of whom are Nobel Laureates, who have formed Scientists for Secure Waste Storage, can bring objective scientific analysis to this licensing proceeding. One of the scientists is Robert Huffman, the former head of the Radiation Control Board for the State of Utah. Having some of the best scientists in the world available to bring objectivity to this process will best serve the public interest. The debate on this process needs to be based on scientific facts not political hysteria. The licensing process of this proposed facility will not be extended or delayed by this intervention. Indeed, the review of technical questions can be answered by this talented scientific body. This can greatly expedite the process. The cost to the Band of obtaining experts of this quality would be several million dollars. Here, these individuals are offering their scientific expertise as a public service to the nation.

The State of Utah has proposed funding legislation of over \$600,000 to litigate against the Band. The proposed intervention of these world class scientists levels the playing field. The Band understands that these scientists will be completely neutral and independent of all of the parties in this proceeding. This is exactly why they are so necessary to this process.

Here, the opportunity exists to have independence and objectivity without the costs of politics and bias. Politics has created this climate of fear on nuclear issues. The public is entitled to know that the science on this proposed facility is fair and neutral. Their interests in knowing the full facts and having their concerns met by this intervention is just cause for this public interest intervention. Over 200 people in Utah, (including

several from Tooele County), have signed petitions requesting their participation and inclusion in this licensing proceeding.

LEGAL ARGUMENTS IN SUPPORT OF INTERVENTION

This proceeding is analogous to intervention in a Federal court action. Therefore, we refer to Federal law as a standard to adopt for permissive intervention in the event there is a finding of no intervention as of right. Federal Rules of Civil Procedure 24(b)(2) grants Courts the discretion to allow a permissive intervention under the following circumstances:

when an applicant's claim or defense and the main action have a question of law or fact in common In exercising its discretion, the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

The Skull Valley Band of Goshutes submit that if the Atomic Safety And Licensing Board disagrees with the right of Scientists for Secure Waste Storage to intervene as a matter of right, it should exercise its discretion and grant them intervenor status based on the principles underlying Federal Rule of Civil Procedure 24(b)(2). The scientific questions of fact which are presented by the proponents and opponents of this facility are common to all parties. Since these independent scientists cannot be "bought", they can adequately answer questions of technical and scientific facts common to all parties.

The Skull Valley Band of Goshutes wish the inclusion of these prominent scientists in this licensing process. The Band wishes the participation of neutral experts and is willing to be subjected to their objective criticism of this proposed facility. The Band's interest is in best protecting the long term interests of their members and their

Reservation. This interest and the public interest can best be addressed by scientists who have no financial stake in the licensing process and/or the building of this facility.

Federal Courts have been allowed broad latitude in protecting the interests of the public with permissive intervention. In TPI Corp. v. Merchandise Mart of South Carolina, Inc. (1974, DC SC) 61 FRD 684 the Court noted that:

[T]here are two conditions which an applicant must meet in order to intervene as a matter of grace: **(1) applicant's claim or defense and main action have question of law or fact in common, and (2) in its discretion, the court shall determine that the intervention will not unduly delay or prejudice the adjudication of the rights of the original parties.** (emphasis added)

One fact which emerged from the Pre-Hearing Conference in Salt Lake City held January 27-29, 1998, was that there were many common contentions from the various opposers of this project. We are all dealing with the same facts. The Scientists for Secure Waste Storage would be addressing the same issues already raised by the other petitioners. Thus the first prong of this test is met.

The second prong of this test is also met. Inclusion here will expedite the licensing process. The only prejudice which will occur to the present intervenors is scientific objectivity will be brought into this licensing process. Public trust in the licensing proceedings can only increase with the participation of these eminent scientists.

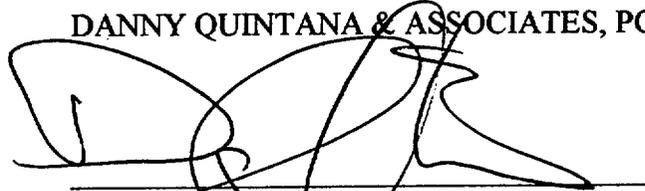
CONCLUSION

For the reasons set forth supra, the Skull Valley Band of Goshutes respectfully pray the Atomic Safety and Licensing Board to allow the intervention of the Scientists for Secure Waste Storage in this licensing proceeding of Private Fuel Storage, LLC for their

application to build a storage facility for spent nuclear fuel on the Skull Valley Band of Goshute Reservation.

DATED this 13th day of February, 1998.

DANNY QUINTANA & ASSOCIATES, PC.



Danny Quintana
General Counsel for the
Skull Valley Band of Goshutes

CERTIFICATE OF SERVICE

I hereby certify that copies of the above Response were served upon the persons indicated below in the manner stated on the date stated:

Attn: Docketing & Service Branch
Secretary of the Commission
U.S. Nuclear Regulatory Commission
Mail Stop 016G15
11555 Rockville Pike One White Flint North
Rockville, MD 20852-2738
(original and two copies -- Fed. Ex. Only)

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

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

- Dr. Peter S. Lam
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
email psl@nrc.gov

Office of the Secretary
Attn: Rulemakings and Adjudication Staff
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
(Fed. Ex. Only)

- Sherwin E. Turk, Esq.
Catherine L. Marco, Esq.
Office of General Counsel
U.S. Nuclear Regulator Commission
Mail Stop: 0-15 B18
Washington, D.C. 20555
Fax: 301-415-3725
email SET@nrc.gov

Jay E. Silberg, Esq.
Shaw, Pittman, Potts & Trowbridge
2300 N Street N.W.
Washington, D.C. 20037-8007
Fax: 202-663-8007
jay_silberg@shawpittman.com

Diane Curran, Esq.
Harmon, Curran & Spielberg
2001 S Street, N.W., Suite 430
Washington, D.C. 20009
Fax: 202-328-6918
dicurran@aol.com

Connie Nakahara, Esq.
Utah Dep. Of Environmental Quality
168 North 1950 West
Salt Lake City, Utah 84114-4810
Fax: 801-536-0061

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

Denise Chancellor
Utah Attorney General's Office
P.O. Box 140873
Salt Lake City, Utah 84114-4810
Fax: (801) 366-0292
dchancel@state.ut.us

Clayton J. Parr, Esq.
Kimball, Parr, Waddoups, Brown & Gee
185 S. State #1300
P.O. Box 144810
Salt Lake City, Utah 84147-0019
Fax: 801-532-7751
kjohnson@kimballparr.com

Dated: February 13th, 1998.

