

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

DOCKETED 08/31/00
SERVED 08/31/00

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

August 31, 2000

MEMORANDUM AND ORDER
(Denying Late-Filed Intervention Petition)

On June 5, 2000, William D. Peterson filed a petition with the Licensing Board seeking to intervene in this proceeding concerning the June 1997 request of Private Fuel Storage, L.L.C., (PFS) for a 20-year license under 10 C.F.R. Part 72 to possess and store spent nuclear reactor fuel in an independent spent fuel storage installation (ISFSI) located on the reservation of the Skull Valley Band of Goshute Indians in Skull Valley, Utah. Both PFS and the NRC staff oppose petitioner Peterson's request, which comes nearly three years after the deadline for filing a timely intervention request, on a variety of grounds, including lack of standing and litigable contentions and a failure to meet the late-filing elements of 10 C.F.R. § 2.714(a)(1).

For the reasons set forth below, we deny Mr. Peterson's petition to intervene, finding that (1) a balancing of the five late-filing criteria of section 2.714(a)(1) do not support entertaining the petition; (2) Mr. Peterson has not established his standing to intervene as a matter of right; and (3) Mr. Peterson has not presented a litigable contention.

I. Background

On July 21, 1997, the staff published a notice of opportunity for a hearing in the Federal Register regarding the PFS ISFSI license application. See 62 Fed. Reg. 41,099 (1997). A number of organizations and an individual filed requests for a hearing and petitions to intervene prior to the September 15, 1997 date by which such filings had to be submitted to be considered timely. See LBP-98-7, 47 NRC 142, 156-57, reconsideration granted in part and denied in part on other grounds, LBP-98-10, 47 NRC 288, aff'd on other grounds, CLI-98-13, 48 NRC 26 (1998). Intervenor State of Utah (State) was one of these timely petitioners that ultimately was granted party status, having been found to have standing and to have proffered admissible technical and environmental contentions relating to the PFS application. See id. at 247. Then, nearly three years after the deadline for filing timely intervention requests, following an April 2000 Board Federal Register notice announcing its intention to conduct a June 2000 evidentiary hearing in Salt Lake City, Utah, on certain of the State's admitted technical contentions and to conduct 10 C.F.R. § 2.715(b) limited appearance sessions to receive statements from interested members of the public, see 65 Fed. Reg. 24,230 (2000), petitioner Peterson directed letters to the NRC Office of the Secretary, dated May 26 and May 31, 2000, and filed a June 5, 2000 petition indicating he wished to intervene in this proceeding. See Petition to Intervene, Third Party Complaint, for Intervener's Use of State Law to Deprive PFS and [Pigeon Spur Storage Facility] of Rights of Storage of [Spent Nuclear Fuel] by Federal Law (June 5, 2000) [hereinafter Peterson Petition]. In that submission, petitioner Peterson identified himself as an ISFSI license applicant for a site at Pigeon Spur, Utah, that has been assigned NRC Docket No. 72-23. See id. at 2.

By order dated June 7, 2000, the Board set a schedule for (1) Mr. Peterson to make a filing supplementing his intervention petition, including a statement of the contentions he wished

to litigate and any other information he wished to provide regarding his standing or the applicability of the five late-filing factors of 10 C.F.R. § 2.714(a)(1); and (2) party responses to his late-filed intervention petition and contentions supplement. See Licensing Board Memorandum and Order (Setting Schedule for Supplement and Responses to Late-Filed Intervention Petition) (June 7, 2000) (unpublished). Pursuant to this order, petitioner Peterson made another filing on June 27, 2000, that consisted of twenty-seven numbered contentions dealing primarily with his interactions with the State regarding his proposed Pigeon Spur ISFSI facility. See Contentions, Third Party Complaint Intervention 10 C.F.R. § 2.714(b)(2) for Intervener's use of State Law to deprive PFS and [Pigeon Spur Storage Facility] of rights of Storage of [Spent Nuclear Fuel] by Federal Law (June 27, 2000) [hereinafter Peterson Contentions].¹

On July 12, 2000, applicant PFS and the staff filed responses to petitioner Peterson's filings; however, the State, which is the subject of much of the discussion in those submissions, made no responsive filing. Both PFS and the staff assert that Mr. Peterson's petition should be denied in that (1) the petition does not meet the late-filing requirements promulgated by 10 C.F.R. § 2.714(a)(1); (2) petitioner Peterson has failed to establish his standing as a matter of right; and (3) petitioner Peterson has not presented an admissible contention. See [PFS] Answer to Petition to Intervene and Contentions of Mr. William D. Peterson (July 12, 2000) [hereinafter PFS Response]; NRC Staff's Response to Petition to Intervene and Contentions Filed by William D. Peterson (July 12, 2000) [hereinafter Staff Response]. On July 21, 2000,

¹ The following day, petitioner Peterson filed another document apparently intended to supplement his contentions. See Additional Contentions Petition to Intervene from Sept 2, 1997, Complaint (June 28, 2000). This document restated contention twenty-four from petitioner Peterson's June 27, 2000 filing and also attached a document entitled "Complaint," which appears to have been filed in the United States District Court for the District of Utah. This document, which does not mention the PFS ISFSI application, contains nothing that alters any of our conclusions regarding the adequacy of Mr. Peterson's intervention petition.

acting pursuant to Board permission, see Licensing Board Order (Scheduling Matters) (July 13, 2000) (unpublished), petitioner Peterson submitted a reply filing that further addressed the five late-filing requirements identified by section 2.714(a)(1) and reiterated his motivation for attempting to intervene in this matter. See Reply & Motion for Findings, Ref: Third Party Complaint for Intervener's use of State Law to deprive Peterson and [Pigeon Spur Storage Facility] of rights Of Storage of [Spent Nuclear Fuel] by Federal Law (July 21, 2000) [hereinafter Peterson Reply].²

II. ANALYSIS

1. Admission of Late-Filed Intervention Petition

To justify a presiding officer's consideration of the "merits" of a late-filed intervention petition, i.e., whether the petition fulfills the standing and contention admissibility standards specified in 10 C.F.R. § 2.714, a petitioner must demonstrate that a balancing of the five factors set forth in section 2.714(a)(1)(i)-(v) supports accepting the petition. The five factors are (1) good cause, if any, for failure to file on time; (2) the availability of other means whereby the petitioner's interest will be protected; (3) the extent to which the petitioner's participation may reasonably be expected to assist in developing a sound record; (4) the extent to which the petitioner's interests will be represented by existing parties; and (5) the extent to which the petitioner's participation will broaden the issues or delay the proceeding.

² Petitioner Peterson submitted more documents on July 24, 2000, consisting of a letter directed to parties other than the NRC or the Licensing Board, and what appears to be a request for an extension of time to supplement Peterson's intervention petition. See Motion for Enlargement of Time Amendment, 40 Days requested, Ref: Third Party Complaint for Intervener's use of State Law to Deprive Peterson and [Pigeon Spur Storage Facility] of rights Of Storage of [Spent Nuclear Fuel] by Federal Law (July 24, 2000). These documents, however, contain nothing that provides cause for permitting further submissions by Mr. Peterson or alters any of our conclusions regarding the adequacy of Mr. Peterson's intervention petition. The same is true relative to two August 13, 2000 submissions by intervenor Peterson, entitled "Request for Understanding."

As we have observed on numerous occasions in this proceeding, good cause for late-filing is the first and most important of the five balancing factors set forth in section 2.714(a)(1). See, e.g., LBP-99-3, 49 NRC 40, 46 (1999); LBP-98-7, 47 NRC 142, 173 (1998). Here, petitioner Peterson filed his petition to intervene more than two years and eight months after the September 17, 1997 deadline set out in the relevant July 1997 hearing opportunity notice. See 62 Fed. Reg. at 41,099. Petitioner Peterson's explanation of his delay in filing is a statement that "[w]hen Utah and Governor Leavitt intervened, he brought with him his 'policy' of the Federal Law does not apply in Utah. . . . The intervention of Utah and Governor Leavitt changed the original proceeding, which change affects NRC Docket No. 72-23, more so than 72-22." Peterson Petition at 10. Thereafter, in his reply filing petitioner Peterson stated that "[t]he issue that troubles Peterson is Utah and its Governor v PFS and NRC which also applies to Pigeon Spur. The problem issues were/are made by intervener Utah, not NRC, not PFS. This strongly started after September 1997, after the intervener petitioning time." Peterson Reply at 4.

While asserting that the State's intervention into the proceeding is not an appropriate trigger for the good-cause test for late filing, PFS also declares that petitioner Peterson has not given any justification for the more than two-year delay between the grant of intervenor status to the State and the filing of his petition to intervene. See PFS Response at 3. As a result, PFS contends, good cause for late-filing is not present. For its part, the Staff argues that good cause for late-filing is not present because, given petitioner Peterson's expressed concern with ISFSI matters and his distinct difference of opinion with the State, it is likely he knew or should have known about the State's status as an intervenor in this proceeding. See Staff Response at 6. Thus, albeit for slightly different reasons, both PFS and the staff argue that good cause for late-filing is absent because petitioner Peterson has not explained the two-year period of inactivity immediately prior to his June 5, 2000 filing.

From his filings, the best we can gather is that petitioner Peterson believes good cause for filing his petition late is present because the deadline timely to file for intervenor status had passed prior to the granting of party status to the State of Utah. Since the apparent *raison d'être* for petitioner Peterson's current intervention attempt is the State's entry into the proceeding, rather than PSF's initial ISFSI license application, he apparently contends that it would have been too difficult for him to foresee the entry of the State into the proceeding prior to the deadline for filing intervention petitions, and therefore he did not have the opportunity to file in a timely manner. In this regard, however, the Board finds persuasive the PFS and staff argument that, whatever efficacy his "State admission" claim might have, petitioner Peterson has failed to provide any explanation for the two-year delay between the Board's April 22, 1998 action granting party status to the State and the filing of his June 2000 intervention petition.³ To the degree petitioner Peterson's assertion that the entry of the State into the PFS ISFSI proceeding "changed" the original proceeding explains why the intervention petition was not filed prior to the September 15, 1997 deadline, it provides no justification for his ensuing two-year delay. Such an extended, unexplained interval clearly compels a Board conclusion that good cause for filing late is not present.

When, as is the present case, good cause is lacking for late-filing under factor one of the five-factor late intervention balancing test set forth in section 2.714(a)(1), a petitioner must make a particularly strong showing in its favor on the other four factors. See, e.g., Duke Power Co. (Perkins Nuclear Station, Units 1, 2 and 3), ALAB-431, 6 NRC 460, 462 (1977). Moreover, in this five-factor balancing test, factor two -- other means to protect petitioner's interests -- and factor four -- adequacy of existing representation -- are accorded less significance in the

³ We note in this regard that petitioner Peterson has been on notice since at least April 1998 that the State is a party to this proceeding. See 63 Fed. Reg. 23,476, 23,476-77 (1998) (Board notice of hearing indicating that State has been admitted as a party to PFS proceeding).

balance. See Texas Utilities Electric Co. (Comanche Peak Steam Electric Station, Unit 2), CLI-93-4, 37 NRC 156, 165 (1993). Here, in considering factor two, the Board agrees with PFS and the staff that there are other means available to petitioner Peterson that could provide equally, if not more appropriate venues, in which he can challenge the purported policies of the State and its Governor relative to ISFSI licensing. See PFS Response at 4, Staff Response at 7. Indeed, in his petition, Mr. Peterson suggests there are other courts in which alleged injuries he sustained could potentially be redressed, including the United States District Court for the District of Utah in which he previously filed an action challenging the State's alleged policies. See Peterson Petition at 10. While the determination made by that court may not have been favorable to petitioner Peterson, he presents nothing that indicates he would be barred from taking his concerns to a similar state judicial forum. Moreover, since the bulk of petitioner Peterson's concerns appear to deal with his proposed ISFSI at Pigeon Spur, Utah, those concerns could be presented during an NRC licensing proceeding for the Pigeon Spur site if the facility application reaches that point. In sum, since there are other means to protect the petitioner's interests, the Board finds that factor two does not weigh in favor of admitting Mr. Peterson's late-filed intervention petition.

Regarding factor three -- the extent to which the petitioner's participation may help develop a sound record -- Mr. Peterson's intervention petition and subsequent filings have not demonstrated to the Board that, in the context of the issues he proposes to address, he would provide any supporting evidence that would develop a sound record. Petitioner Peterson's filings lack sufficient specificity in describing the issues to be examined, the prospective witnesses, and the proposed testimony of those witnesses -- details that have been identified repeatedly as pertinent to an analysis of the section 2.714(a)(1) third factor. See Texas Utilities Electric Co. (Comanche Peak Steam Electric Station, Units 1 and 2), CLI-88-12, 28 NRC 605, 611 (1988). With these important elements absent, petitioner Peterson's filings fail to support a

determination that his participation would help develop a sound record. Accordingly, the Board finds that factor three likewise does not weigh in favor of admitting the late-filed petition.

With regard to factor four -- the extent to which the petitioner's interests will be represented by existing parties -- petitioner Peterson seemingly has unique interests that he wishes to represent in this proceeding, although, as was previously noted, in many respects they would be best dealt with if and when the Pigeon Spur ISFSI application comes to fruition. Further, to the extent petitioner Peterson's interests are pertinent to this proceeding, petitioner Peterson has provided nothing to convince us that such interests are not already represented by existing parties. Mr. Peterson states in his petition that "[Pigeon Spur] will aid PFS in the contention of the 'policy' issue of Governor Leavitt." Peterson Petition at 11. Assuming petitioner Peterson is correct in this regard, however, as is apparent from its participation in this proceeding over the last three years, applicant PFS is fully capable of representing its interests in this licensing proceeding on this and other matters. Accordingly, to the degree petitioner Peterson's pertinent interests coincide with those of PFS, they will be adequately represented without his intervention. The Board thus finds that factor four does not weigh in favor of admitting the late-filed petition.

In connection with factor five -- the extent to which the petitioner's participation will broaden or delay the proceeding -- it is apparent from his "contentions" statement that petitioner Peterson's concerns are not currently before the Board in this proceeding. These issues, which relate to matters ranging from petitioner Peterson's prior dealings with the State regarding uranium mill tailings to his proposed Pigeon Spur, Utah ISFSI therefore would broaden and almost certainly delay this proceeding. Accordingly, the Board finds that factor five does not weigh in favor of admitting his late-filed intervention petition.

In sum, the Board finds that petitioner Peterson has failed to demonstrate there is good cause for the late-filing of his intervention petition. Nor has he shown that a balancing of the

remaining four factors in section 2.714(a)(1) makes a compelling showing favoring the admission of his petition. Consequently, the Board finds that petitioner Peterson's late-filed petition should not be admitted.⁴

2. Standing

Even if petitioner Peterson had shown that the late-filing criteria of section 2.714(a)(1) supported the admission of the intervention petition, he would still have to establish his standing as a matter of right to intervene in this proceeding. The contemporaneous judicial standing concepts that are to be employed in NRC adjudicatory proceedings, see Portland General Electric Co. (Pebble Springs Nuclear Plant, Units 1 and 2), CLI-76-27, 4 NRC 610, 613-14 (1976), require that a petitioner must establish (1) it has suffered or will suffer a distinct and palpable injury that constitutes injury-in-fact within the zones of interests arguably protected by the governing statutes (e.g., the Atomic Energy Act of 1954 (AEA), the National Environmental Policy Act of 1969 (NEPA)); (2) the injury is fairly traceable to the challenged action; and (3) the injury is likely to be redressed by a favorable decision, see Yankee Atomic Electric Co. (Yankee Nuclear Power Station), CLI-96-1, 43 NRC 1, 6 (1996).

The focus of this proceeding is the efficacy of the PFS application to construct and operate an ISFSI facility on the Skull Valley Band reservation. As the staff points out, however, petitioner Peterson's central assertion is that his ISFSI license application has been "hindered" by both the State's policy against spent nuclear fuel and the actions of the State's Governor. See Staff Response at 11-12. Thus, it is not the application of PFS for an ISFSI license that petitioner Peterson asserts has caused or will cause him injury, it is the alleged actions of the

⁴ Our determination on the admissibility of petitioner Peterson's late-filed petition likewise constitutes our ruling on the admissibility of the accompanying late-filed contentions. See LBP-99-3, 49 NRC at 46 n.1.

State and its Governor adverse to Mr. Peterson that has motivated petitioner Peterson to file an intervention petition in this matter.⁵

Indeed, as he has presented his claims, the best that can be said for petitioner Peterson's interest in this proceeding is that it is to avoid "bad precedent," a purported injury that lacks the requisite concreteness to constitute injury in fact. See General Public Utilities Nuclear Corp. (Oyster Creek Nuclear Generating Station), LBP-96-23, 44 NRC 143, 159 (1996); Ohio Edison Co. (Perry Nuclear Power Plant, Unit 1), LBP-91-38, 34 NRC 229, 248-49 (1991), aff'd on other grounds, CLI-92-11, 36 NRC 41 (1992), petition for review denied, City of Cleveland v. NRC, 60 F.2d 1561(D.C. Cir. 1995). Moreover, his purported injury arising from the actions of the State and its Governor do not fall within the zones of interest arguably protected by the respective statutes that govern this proceeding. Further, because petitioner Peterson does not assert that his purported injury is a result of the PFS ISFSI application or its final outcome, the injury of which he complains cannot be traced back to the PFS ISFSI application. From this it follows that no determination of the Board regarding the license application would be likely to redress that asserted injury, regardless of the final outcome of this proceeding. Thus, for a variety of reasons, petitioner Peterson lacks standing to intervene as a matter of right in this proceeding.⁶

⁵ Utah Governor Michael Leavitt is not a party to the PFS ISFSI proceeding, nor has he sought such status.

⁶ When a petitioner lacks standing as a matter of right, the Board may still admit the petitioner as a matter of discretion. See Pebble Springs, CLI-76-27, 4 NRC at 616. If a petitioner does not request permission to intervene as a matter of discretion, as is the case with Mr. Peterson's intervention filings, discretionary intervention need not be considered. See Babcock and Wilcox (Apollo, Pennsylvania Fuel Fabrication Facility), LBP-93-4, 37 NRC 72, 94 n.66 (1993). We would add that, even if it were presented, we see nothing on the record before us that would cause us to grant discretionary intervention. See LBP-98-7, 47 NRC at 177-78.

3. Admissibility of Contentions

Of course, even if petitioner Peterson was able to show that he had standing (and that the late-filing criteria of section 2.174(a)(1) supported the admission of the intervention petition), he would still have to establish that he had presented one or more admissible contentions to gain party status in this proceeding. For a contention to be deemed admissible under 10 C.F.R. § 2.714(b)(2) it must consist of (1) a specific statement of the issue to be raised or controverted, with references to the specific portion of the license application in question; (2) a brief explanation of the bases for the contention; and (3) a concise statement of the alleged facts or expert opinion supporting the contention on which the petitioner intends to rely in proving the contention at any hearing, all of which must be sufficient to show that a genuine dispute exists on a material issue of law or fact. See Yankee Atomic Electric Co. (Yankee Nuclear Power Station), CLI-96-7, 43 NRC 235, 248-49 (1996); Georgia Institute of Technology (Georgia Tech Research Reactor, Atlanta, Georgia), CLI-95-12, 42 NRC 111, 117-18 (1995). A contention that fails to include any of these components, or that, if proven, would be of no consequence to the proceeding because it would not entitle the petitioner to any relief, is subject to dismissal. See 10 C.F.R. § 2.714(d)(2); see also Sequoyah Fuels Corp. (Gore, Oklahoma Site Decontamination and Decommissioning Funding), LBP-94-8, 39 NRC 116, 117-18 (1994). Additionally, a contention is subject to dismissal if it (1) constitutes an attack on applicable statutory requirements; (2) challenges the basic structure of the Commission's regulatory process or is an attack on the agency's regulations; (3) is nothing more than a generalization regarding the petitioner's views of what applicable policies ought to be; (4) seeks to raise an issue that does not apply to the facility in question or is otherwise outside the scope of the proceeding; or (5) concerns a matter that will not afford the petitioner cognizable relief because it lacks significance relative to the agency's general responsibility and authority to protect the public health and safety and the environment. See LBP-98-7, 47 NRC at 178-79.

The Board finds that none of petitioner Peterson's twenty-seven numbered contentions meet the section 2.714 admission requirements as a result of either failing to demonstrate a genuine dispute on a material issue of fact or law; raising matters unrelated to the PFS facility license or otherwise outside the scope of this proceeding; failing to be of consequence in the proceeding because it would not entitle the petitioner to relief; or a combination of these factors. Therefore, the Board concludes that none of the contentions is admissible as a result of these fundamental deficiencies.

As PFS properly notes, a central problem with a number of petitioner Peterson's "issue statements" is that they fail to show any genuine dispute exists on a material issue of law or fact. See PFS Response at 7. Petitioner Peterson's contentions one through nine, while encompassing a variety of topics, are simply assertions about Utah law or Utah state government officials, as is depicted by contention two that states only that "Denise Chancellor, Esq. is an Assistant Attorney General for the State of Utah." Peterson Contentions at 2. With no indication that they in any way raise questions pertinent to the PFS facility or are of consequence to the proceeding as a basis for cognizable relief, these numbered assertions of fact, which are primarily what contentions one through nine constitute, do not in and of themselves present a disputed question of fact or law. As a result, we decline to admit intervenor Peterson's contentions one through nine.

Contentions ten through twelve and fourteen through eighteen likewise do not meet the section 2.714(b), (d) admissibility standards, albeit for a somewhat different reason. Each of these eight contentions, which concerns some action or policy of the Utah Legislature or Governor, cite no specific event that occurred or statement that was made in support of the contention. Contention sixteen for example, states only that "Utah's Governor has made and perpetuated false impressions about nuclear material." Peterson Contentions at 4. This type of ad hominem declaration is insufficient to provide the requisite basis for a contention. Moreover,

it is not apparent how these matters relate to the licensing of the PFS facility, so as to be within the scope of this proceeding. As a result, admission of contentions ten through twelve and fourteen through eighteen is denied.

Contentions thirteen, nineteen through twenty-five, and twenty-seven do not meet the section 2.714(b) requirement that a contention must seek to raise an issue that applies to the licensing of the PFS facility so as to be within the scope of the proceeding. These contentions generally relate to (1) the petitioner's proposed ISFSI at Pigeon Spur, Utah, and (2) the petitioner's claims for monetary damages arising from the purported State action (or inaction) regarding that ISFSI, but do not indicate a connection to the proposed PFS ISFSI license. In fact, none of these nine contentions mention the proposed PFS ISFSI facility. As a result, these contentions are inadmissible because, in failing to apply to the PFS facility in question, they are outside the scope of this proceeding.

Finally, in connection with contention twenty-six, petitioner Peterson makes the assertion that "a) Details of construction oversight and fire control are county issues. b) They should be worked out between the county people and project engineers. c) The State's seeing these matters in contention is out of line." Peterson Contentions at 8. Putting aside the problems with this contention as it generally seems to challenge the agency's long-standing interpretation of AEA section 189a, 42 U.S.C. § 2239(a), as permitting intervention by state and local governments on relevant matters, see Public Service Co. of New Hampshire (Seabrook Station, Units 1 & 2), CLI-77-25, 6 NRC 535, 537 (1977), it also lacks specificity so as to provide an adequate basis for the contention. Thus, as with petitioner Peterson's other contentions, we reject this issue statement as well.

III. CONCLUSION

Having failed to establish (1) good cause for filing his intervention or that the other four elements of the late-filing balancing test of section 2.714(a)(1) provide compelling support for the admission of his petition; (2) that he will suffer a cognizable injury in fact that is within the statutory zone of interests or that can be redressed by this proceeding so as to show he has standing as of right; and (3) that any of the "contentions" he has set forth are admissible in accordance with the requirements 10 C.F.R. § 2.714(b), (d), petitioner Peterson's request to be admitted as a late intervenor in this proceeding is rejected.

For the foregoing reasons, it is this thirty-first day of August 2000, ORDERED:

1. That the June 5, 2000 petition of William D. Peterson to intervene in this proceeding is denied.

2. In accordance with the provisions of 10 C.F.R. § 2.714a(a), as it rules upon an intervention petition, this memorandum and order may be appealed to the Commission within ten days after it is served.

THE ATOMIC SAFETY
AND LICENSING BOARD⁷

/RA/

G. Paul Bollwerk, III
ADMINISTRATIVE JUDGE

/RA/

Dr. Jerry R. Kline
ADMINISTRATIVE JUDGE

/RA/

Dr. Peter S. Lam
ADMINISTRATIVE JUDGE

Rockville, Maryland

August 31, 2000

⁷ Copies of this memorandum and order were sent this date by Internet e-mail transmission to petitioner William D. Peterson and to counsel for (1) applicant PFS; (2) intervenors Skull Valley Band, Ohngo Gaudadeh Devia, Confederated Tribes of the Goshute Reservation, Southern Utah Wilderness Alliance, and the State; and (3) the staff.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB MEMORANDUM AND ORDER (DENYING LATE-FILED INTERVENTION PETITION) (LBP-00-23) have been served upon the following persons by deposit in the U.S. mail, first class, or through NRC internal distribution.

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Docket No. 72-22-ISFSI
LB MEMORANDUM AND ORDER
(DENYING LATE-FILED
INTERVENTION PETITION) (LBP-00-23)

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[Original signed by Adria T. Byrdsong]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 31st day of August 2000