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USNRC

William D. (Bill) Peterson
Pigeon Spur Fuel Storage Facility
NRC Docket No. 72-23
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OFFICE OF THE
ADMINISTRATIVE
JUDGES

UNITED STATES
NUCLEAR REGULATORY COMMISSION
Washington D.C. 20555-0001

ATOMIC SAFETY AND LICENSING BOARD

Before the Commission in the EIS Docket No. 72-22 matter Before Administrative Judges:

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

Before the Commission in the EIS Docket No. 72-22 matter Before Review Panel:

NRC - Susan Shankman, Mark Deligatti, Scott Flanders
BLM - Glen Carpenter, BIA - David Allison
STB - Charles Gardiner

In the Matter of

PRIVATE FUEL STORAGE, L.L.C., (PFS)

(Independent Spent Fuel Storage Installation)

Docket No. 72-22-ISFSI

Ref ASLBP No. 97-732-02-ISFSI

October 6, 2000

APPEAL TO THE COMMISSION FOR INTERVENER STATUS
(Response to 9/26/00 Action of NRC)

To the Commission:

Petitioner Peterson has erred. He has been corresponding in the litigation believing that the date of a E-mailing of his pleading was it's service date. He has erred where he did not

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understand that the mailing of the paper copy is the service date. Also, Peterson speculated that where some actions were moving as fast as they were that the only way possible to sustain the activity in some instances was by E-mail. Peterson will strive to become prompt and current.

Peterson has a stake in the outcome of the EIS. Peterson petitioned to enter this matter to contend with intervener State of Utah where the State's actions may affect petitioner Peterson's development of his proposed Pigeon Spur Fuel Storage Facility (PSFSF) in Box-Elder County, Utah. Utah's leader Governor Leavitt has a policy to resist SNF storage in Utah. In EIS hearings the State advocated excessively high cleanup costs for a worst case potential railroad transport incident. The State said there would be an inability to control fires at the SNF storage site. A real estate person represented that there would be high property value losses along the transport route due to shipping of SNF. Peterson and Pigeon Spur's technical advisory board has refuted the State's and others contentions in the SNF issue. The Pigeon Spur scientists have also spoken on the necessity of developing nuclear power to contend with global warming and to dispose of weapons plutonium. The scientists of the Pigeon Spur technical advisory board are very capable and are most outstanding in the nuclear energy field. Today and for years past these scientists have been working to answer the public's concerns of SNF storage. They are providing answers in the media, at meetings and hearings, and by direct one on one consultation.

Peterson has petitioned to the NRC in the EIS review process to have the advantages of the Pigeon Spur site proposal seen, which may warrant its selection over the PFS site. Peterson contends that the proposed PSFSF has substantial advantages over the proposed PFS facility. A copy of the original Pigeon Spur license application was sent to NRC for support of Peterson's petition. Peterson has also petitioned for NRC to include Pigeon Spur as a potential site with the

other 38 sites listed in the PFS EIS. It is Peterson's understanding that his standing as only an interested party is sufficient to make his petition to have NRC review the Pigeon Spur proposal for its advantages in the EIS. Also, Peterson's technical board members having status simply as interested parties can continue to refute wrongful contentions of the State. However, Peterson with Pigeon Spur and its Technical Board may need intervener status to contend with the State's wrongful contentions made in the EIS and to require answers from the State in the formal proceedings of the EIS to make the record complete. Peterson and his scientific board will continue to champion reprocessing of SNF for recovery and use of its 92% U_{238} . This will greatly reduce the amount of material requiring permanent burial at Yucca mountain and reduce the required interment time from 10,000 years to only 600 years.

The Draft EIS has initial screening sheets for 38 potential sites considered for the proposed spent nuclear fuel facility. Of these 38 sites, 23 sites are on Indian reservations and 11 sites are at Government related facilities. Twenty six (26) of the 38 sites had DOE Phase I funding considered or awarded. The latest award appears to have been made on 9/30/93 to the Tonkawa Tribe in Oklahoma. Nine (9) of the 26 potential sites were awarded or considered for DOE Phase II funding. Among the States, Oklahoma has the most potential sites - 10. New Mexico is next with 5 potential sites. Utah, Wyoming, Washington, and Texas each had 2 potential sites. Thirteen (13) states each had one potential site. A potential site in Canada and a Pacific Atoll (Palmyra Island) were considered. The potential sites list appear to have been established during the time of the Nuclear Waste Negotiator from 1987 to 1993. In 1993, Peterson did request that his facility be considered by Negotiator Richard Stallings, but at that time it never got enough consideration to warrant a standing in the initial screening category.

Utah is hosting the 2002 Winter Olympics. For the 2002 Olympics Utah needs additional funding from the U.S. Commerce committee, Senator John McCain. Chair. The U.S. Government also needs an intermediate SNF storage facility, Senator Frank Mukowski, Chair. Peterson proposed that former Nuclear Negotiator mediate a compromise for the satisfaction of both the U.S. Government and Utah. The NRC Administrative Judges presiding over the hearing of the EIS can appoint assistants and make rules, so the NRC administrators could initiate and oversee an arbitration panel, if it chose to do such.

According to rules there was a time limit for Peterson to enter into the EIS matter as an intervener. Peterson is asking for intervention out of time. Peterson cannot cure the situation where he is out of time. Peterson has provided excuses, but they do not cure time. Peterson has provided reasons why he should be intervening at this time, namely to provide benefit to the record by bringing in correct facts about the issues raised by intervener Utah. In part, to do what Peterson has petitioned, he has asked, if necessary, for changes to the rules.

Peterson herewith appeals for reconsideration of the order and memorandum of the Board signed September 25, 2000, ref §2.714a(a). For supporting memorandum the petitioner offers his pleadings in this matter leading up to this point.

Dated this 6th day of October, 2000.



William D. (Bill) Peterson
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CERTIFICATE OF E-mail SERVICE / DELIVERY

Copies of this APPEAL were sent this date by Internet e-mail transmission to counsel for (1) applicant PFS; (2) interveners Skull Valley Band of Goshute Indians, Ohngo Gaudadeh Devia, Confederated Tribes of the Goshute Reservation, Southern Utah Wilderness Alliance, and the State; and (3) the staff,

CERTIFICATE OF U.S. POSTAL SERVICE / DELIVERY

Copies of the included document[s] were previously sent by E-mail and this day they were sent by U.S. Postal Mail, First Class to counsel for:

Applicant: (1) PFS; Jay E. Silberg, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW, Washington, D.C. 20037;

Interveners: (2) Skull Valley Band of Goshute Indians, John Paul Kennedy, Sr., Esq., and David Pete, 1385 Yale Avenue, Salt Lake City, Utah 84105;

(3) Ohngo Gaudadeh Devia, Diane Curran, Esq., Harmon, Curran, Spielberg & Eisenberg, L.L.P., 1726 M Street, N.W., Suite 600, Washington, D.C. 20036;

(4) Confederated Tribes of the Goshute Reservation, Danny Quintana, Esq., 68 South Main, Suite 600, McEntire Bldg., Salt Lake City, Utah 84101;

(5) Southern Utah Wilderness Alliance, Joro Walker, Esq., Land and Water Fund of the Rockies, 2056 East 3300 South, Suite 1, Salt Lake City, Utah 84109;

The State, (6) Daniel Moquin, Utah Attorney General's Office, 1594 West North Temple, Suite # 300, Salt Lake City, Utah 84114-0855;

(7) Denise Chancellor, Esq., Assistant Attorney General, Utah Attorney General's Office, 160 East 300 South, 5th Floor, P.O. Box 140873, Salt Lake City, Utah 84114-0873;

The Staff: (8) G. Paul Bollwerk III, Esq., Chairman Administrative Judge, Atomic Safety and Licensing Board Panel, Mail Stop T-3 F23, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001;

(9) Dr. Peter S. Lam, Administrative Judge, Atomic Safety and Licensing Board Panel, Mail Stop T-3 F23, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001;

(10) Dr. Jerry R. Kline, Administrative Judge, Atomic Safety and Licensing Board Panel, Mail Stop T-3 F23, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001;

(11) Catherine L. Marco, Esq., and Sherwin E. Turk, Esq., Office of the General Counsel, Mail Stop O-15 B18, D21, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555;

(12) Adjudicatory File, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001;

(13) Office of the Secretary - (Original and two copies) Attention: Rulemakings and Adjudications Staff, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001

Dated this 6th day of October, 2000.



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