

RAS 2282

William D. (Bill) Peterson
Pigeon Spur Fuel Storage Facility
NRC Docket No. 72-23
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UNITED STATES
NUCLEAR REGULATORY COMMISSION
Washington D.C. 20555-0001

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

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

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

September 28, 2000

MOTION TO STRIKE ACTION AND MOTION FOR CONSIDERATION

(Response to late 9/24/00 Actions of PFS, staff and 9/27/00 NRC)

On September 22, 2000, or before, Peterson received no E-mail or U.S. mail response to his motion of September 15, 2000. This was the time limit for response set by the Board. Peterson moves to strike the out-of-time response of Shaw Pittman of September 22, 2000.

Template = SECY-041

SECY-02

Peterson was sent no E-mail of Shaw Pittman's action dated September 22, 2000. The Shaw Pittman action was received September 27, 2000, by U.S. Mail only. see Shaw Pittman certificate of service not having Peterson on its list. Likewise, the Certificate of Service for the Counsel for the NRC Staff shows service "by deposit in the U.S. Postal Service, as indicated by double asterisk." Note however, that, service to Peterson was done by E-mail out-of-time Sunday September 24, 2000. The primary reason both the NRC Staff and Shaw Pittman staff say that Peterson should not be allowed to intervene is that Peterson is out-of-time to petition. Likewise the NRC Staff and the Shaw Pittman response must be disallowed for their being out of time. Note that the pace of the litigation activity in the EIS can be only maintained by E-mail. In the immediate litigation Peterson has been slighted and ignored as he was when the EIS was written and initiated.

None of the NRC staff, the Shaw Pittman staff, the PFS staff, and other intervening staff has provided a professional, technical, and scientific staff who has responded to the technical question of the likes of the concerned citizens writings in the Rulemakings and Adjudications Staff service of September 14, 2000 which people are the likes of those who made comments at the Salt Lake City and Grantsville NRC hearings. Peterson and his staff has established a good cause to provide answers with the professional and scientific correct answers of Dr. Gary Sandquist, Dr. Steven Barrowes, Dr. Max Carbon, Dr. Richard Wilson, William Peterson, and others. Peterson has volunteers from the ranks of INEEL which will supplement this need.

Consideration of the public's needs for answers has not been provided by the Licensing Board and this is an error. Each subject not addressed and answered by the board is an error of the Board, including minimizing railroad hauling incidents by keeping railroad or truck shipping

off the Wasatch Front, i.e. shipping to Pigeon Spur NRC Docket No. 72-23, likewise locating away from seismic activity putting the storage site in seismic zone 2 - Pigeon Spur, likewise locating on an existing railroad - Pigeon Spur, likewise locating mountain ranges away from Hill AFB training operations - Pigeon Spur.

The Board's decisions have been erroneous. Peterson has established good cause for filing a petition to intervene at this time. A new opportunity to intervene was created by the situations which have arisen during and because of the EIS hearings procedures.

In a ATOMIC SAFETY AND LICENSING BOARD memorandum and order of September 26, 2000, Judge Bollwerk writes of Peterson's motion for the appointment of special assistants pursuant to 10 C.F.R. § 2.718(k). The Judge says that Peterson cannot do this where Peterson does not now have intervener status. This is a moot order. Of course Peterson cannot do this. 10 C.F.R. § 2.718(k) is about the Power of the presiding officer, not about the power of Peterson. Peterson is an "any interested person" ... who "may petition the Commission to issue, amend ... any regulation" per 10 C.F.R. § 2.802(a). Interested person Peterson is petitioning that the Board Presiding Officer appoint special assistants to find a compromise and Peterson needs only be an interested person to do make this petition. i.e. to make this petition Peterson does not have to have intervener status. Peterson petitions that the Board re-see Peterson's petition for a committee to find compromise.

Peterson has been in this matter for nearly a decade. Both PFS and NRC have long known of Peterson intentions to do work in SNF storage. The EIS is deficient for not listing and considering Pigeon Spur as an alternative for interim storage of SNF. Peterson motions for consideration of his motions and intervener status.

Dated this ____28th____ Day of September, 2000.



William D. (Bill) Peterson
Pigeon Spur Fuel Storage Facility
NRC Docket No. 72-23

CERTIFICATE OF SERVICE / DELIVERY

Copies of this PETITION 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, Susan Shankman, and Mark Deligatti,

cc: NRC, DOE, UTAH, SLOC, PSF and Goshute Indians
Senator Frank Murkowski
Senator Orrin Hatch
Senator Robert Bennett
Richard Stallings, former Nuclear Negotiator, Congressman, Idaho

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CERTIFICATE OF 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 (1) applicant PFS; Jay E. Silberg (2) interveners Skull Valley Band of Goshute Indians, John Paul Kennedy, Sr., Esq., Ohngo Gaudadeh Devia, Diane Curran, Esq.; Confederated Tribes of the Goshute Reservation, Danny Quintana, Esq., Southern Utah Wilderness Alliance, Joro Walker, Esquire, and the State, Daniel Moquin, Denise Chancellor, Esq.; and (3) the staff, G. Paul Bollwerk III, Esq., Dr. Peter S. Lam, Dr. Jerry R. Kline, Catherine L. Marco, Esq., Sherwin E. Turk, Esq., Adjudicatory File; Office of the Secretary - (Original and two copies)

Dated this ____6th____ day of October, 2000.



William D. (Bill) Peterson
Pigeon Spur Fuel Storage Facility
NRC Docket No. 72-23