

RAS 2283

DOCKETED  
USNRC

William D. (Bill) Peterson  
Pigeon Spur Fuel Storage Facility  
NRC Docket No. 72-23  
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Office of the  
Administrative  
Lawyer

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 26, 2000

MOTION TO STRIKE ACTION. SEE DOCKET NO 72-23  
(Response to 9/24/00 Action of PFS)

Peterson responds to an E-mailed response of PFS Sunday afternoon September 24, 2000. The PFS response questions Peterson's timeliness in this matter. Peterson wishes to make clear that he has for a long time had an interest and worked at developing nuclear power.

Template = SECY-041

SECY-02

Peterson worked on the installation of the UofU's nuclear reactor while Peterson was in college. He and his company PEMCO did many project at INEL. PEMCO built equipment for E-Systems which are now operating in many commercial power plants. More recently, in 1985, Peterson and his company provided the material handling engineering and equipment to move the Vitro uranium tailings. Peterson was working on an alternative for spent nuclear fuel (SNF) storage at Pigeon Spur a decade ago. On Sept 4, 1994, when the PFS consortium of power companies was working to develop SNF storage with the Mescalero Apache in New Mexico, Peterson suggested that Scott Northard (PFS) consider the Skull Valley Band of Goshute Indians for a site alternative. See again Peterson's letter of June 26<sup>th</sup>, 1995.

For storage of SNF the congress has exclusively targeted land of Indians. Peterson has tried to work with at least a half a dozen Indian tribes including both the Mescalero and Goshutes. Peterson did his own independent study for a remote location, somewhat accessible to an industry supply source and on an existing railroad line. From studies in railroad archives, Peterson selected Pigeon Spur.

Peterson's aim was to develop public confidence in the handling and storage of nuclear waste material when he developed his MRS storage concept. Peterson is sensitive to the needs and wants of Utah. The PFS consortium is not!

From the beginning Peterson has supported the Goshute's work for storage of SNF. But today, the hearing on the EIS show there is a better way. Not having a railroad spur to the PFS site has always been a problem. Being on an active seismic fault is a problem. Being a harassment to the flight use of the Air force Test and Training range is a big problem.

Two things must happen in Utah . The 2002 winter Olympics will be held in Salt Lake

City. And spent nuclear fuel (SNF) must be stored in Utah. These decisions have been made. The 2002 Olympic games will be held regardless. There is not time to reconsider the issue and plan and build for the games otherwise, even if there may be problems. Likewise, spent nuclear fuel will be stored in Utah. There simply is not time for another stint of the Nuclear Negotiator to find other volunteers and develop licensing applications for other locations.

Governor Leavitt is between a rock and hard place. The nuclear subject is a tar-baby which the Governor cannot deal with and from which he needs relief. NRC can force the spent fuel issue on Utah but it can better be done by education and compromise. Peterson with his experts are working very hard to inform the public. Peterson is attempting to work with SLCO, and the U.S. Senate's Energy and Commerce Committees to put this together. Meanwhile, PFS is doing nothing in these regards! The PFS consortium is an outside group representing eastern utilities invading Utah and the appearance is not good. On the other hand, Pigeon Spur is Peterson, a local guy who got severely clobbered by Utah for cleaning up the Vitro tailings, and he is simply trying to recover from being beat up by the State.

Peterson is championing reprocessing of SNF. Without reprocessing SNF does not have an ultimate disposition and can sit for no time limit in storage in Utah. This is a big concern of Utah. PFS with Yucca mountain will not work. The U.S. cannot bury material that is 92% U238. No scientist in his right mind will allow this.

The EIS for Docket No. 72-22 started out looking good but it has not had scientific and sociological support during its tenure of processing. PFS and Docket No. 72-22 is in trouble. Peterson and Pigeon Spur is a solution for SNF storage where PFS is not. Peterson with his staff has tried to help PFS but from PFS's response of Sept 24, 2000. PFS apparently does not want

help. Peterson has tried to develop public confidence in the handling and storage of nuclear waste material. Peterson has thought that he might better help if he had a better more inside intervener status. Peterson's request for a compromise and his request that NRC consider the better alternatives of Pigeon Spur are both independent of whether Peterson does or does not have intervener status. "Any independent person may petition the Commission to issue, amend or rescind any regulation.", ref § 2.802(a). And Peterson so does. Per this rule, in view of the problems in Utah with Docket No. 72-22, Peterson moves that the commission consider Docket No. 72-23 in its stead, again per § 2.802. For funding for the PSFSF, Peterson moves that the commission see Peterson's September 25, 2000 petition for compromise. Peterson moves that the commission strike PFS action E-mailed September 24, 2000, in that the action was made out of time. Peterson moves that the commission strike the PFS action E-mailed September 24, 2000 where the action is not sensitive to the needs and advancement of the Docket No. 72-22 EIS.

Dated this 26th day of September, 2000.



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

Attachments:

April 94 letter to Scott Northard	D:\P\NUC\NS-POWER\NS-POWER.394
June 95 letter to Scott Northard	D:\P\NUC\NS-POWER\SN-62695.let

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,

D:\P\NUC\NRC\LAB925rply.wpd

William D. Peterson, M.S.  
Professional Engineer  
1037 Watercress Lane #2V  
Midvale, Utah 84047  
Tel/FAX 801-566-9011

April 4, 1994

Scott Northard  
Northern States Power Co.  
Renaissance Square Bldg, 7th floor  
Minneapolis Minn 55401

SUBJECT: MRS facility of Skull Valley Goshute Indians in Utah

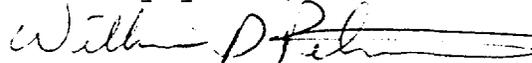
Dear Mr. Northard:

In our phone conversation I proposed that you consider the Skull Valley Goshute Indian facility as an alternative site for interim storage of spent nuclear fuels. You ask that I provide information of the status of the development of the Goshute facility. I talked with Danny Quintana, counsel for the tribe, and Beverly Slack, Assistant MRS Project Manager. They believe that they are as current in the U.S. Department of Energy's MRS process as is possible. The Skull Valley Goshutes have conveyed their acceptance of the offer of the United States Government under the voluntary siting process to proceed with the building of an MRS facility. They are proceeding in the process as set forth by federal law.

I talked with (Angie) of Mr. Richard H. Stallings' office of the Nuclear Waste Negotiator. They forwarded to me recent correspondence from the Goshutes on this matter. I am forwarding this information to you. I see that the Goshutes are making every effort to be prepared to receive spent nuclear fuels for temporary storage as soon as it is physically and politically possible. Please understand that I am an independent engineer. I am not employed by the Skull Valley Goshute Indians. I am specialized as material handling engineer who has designed and furnished much nuclear transport equipment including for the INEL FAST project and truck and rail transport equipment for loading, hauling, and unloading nuclear waste materials.

If you require any more information on the Skull Valley Goshute Indians' progress, please call me and I will help you in any way that I can.

Sincerely yours,



William D. Peterson, M.S., P.E.  
Registered Engineer, Utah #2766

enc: Goshute letter of March 17, 1994  
memo from David Tillson

cc: Office of Nuclear Negotiator:  
Brad Hoaglun & Richard H. Stallings

P&A Engineers  
2127 Lincoln Lane  
Holladay, Utah 84124  
Tel/FAX 801-277-3981

June 26, 1995

Scott Northard  
Northern States Power Co.  
Renaissance Square Bldg, 7th floor  
Minneapolis, Minnesota 55401  
Tel 612-337-2183, FAX 612-330-5958

Subject: MRS - Spent Fuel Monitored Retrievable Storage Facility

Dear Mr. Northard:

Since our phone conversation last Monday morning, June 19th, I have drawn a 1500 capsule unit facility. A drawing of this suggested facility for the Mescalero Apache facility is included. I show how 1500 capsules can be stored in field of 13 - 800' foot long railroad tracks. Where the tracks are spaced 50' apart, the storage field dimensions are 800 feet by 600 feet. The capsules are shown stored in groups of 6 with a 16' separation so that a domino effect would be confined.

Based upon this design I have put together a basic equipment list for the Mescalero facility and have sent this information to an equipment broker in San Francisco. The railroad and crane equipment that my design requires for this facility are standard railroad and crane gear which are available from both the new and used markets. We will put together a list of equipment currently available for this project and their costs.

I am proceeding to write a "monitoring procedure". My entire "MRS" concept is aimed at developing public confidence in the handling and storage of nuclear waste material. Thus, the monitoring system is designed for easy public access to observe the "MRS" site procedure and see the material monitoring data. This, of course, would be observed from off site video and computer terminals at associated universities and public facilities.

Where 1500 units are in storage, allowing 25 days, 24 hrs per day to examine radiation from each capsule, this would allot 24 minutes per capsule including set-up time. This would best and most efficiently be done by automation. Also, this would require automation to achieve the test duplication I require for comparisons. See the attached proposed testing specification.

I have built an "N" gage RR scale model of the MRS concept. I have sent photographs of the model to Mr. Silas Cochise, project manager for the Indian tribe. I am inclosing copies of the same photographs for you. As you suggested, I am also sending a copy of this information to Mr. Duane Schmoker. I would like to show the model to you. I would appreciate your feed-back on what I have proposed.

Sincerely yours,



William D. (Bill) Peterson, M.S., P.E.  
P&A Engineers

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, 5<sup>th</sup> 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.

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