

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

RAS 7414

DOCKETED 03/02/04

COMMISSIONERS

SERVED 03/02/04

Nils J. Diaz, Chairman
Edward McGaffigan, Jr.
Jeffrey S. Merrifield

In the Matter of)
)
)
PRIVATE FUEL STORAGE L.L.C.)
)
(Independent Spent Fuel)
Storage Installation))
_____)

Docket No. 72-22-ISFSI

CLI-04-07

MEMORANDUM AND ORDER

This order concerns the William D. Peterson's appeal from the Board's January 30, 2004 Memorandum and Order (Dismissing Petition to License Pigeon Spur Interim Spent Fuel Storage Facility). In that order, the Board found that it has no jurisdiction to consider licensing a facility other than the proposed PFS facility that was the subject of the proceeding before it. As such, the Board had no authority to consider Peterson's request for a license of some other facility.

In 1998, William D. Peterson filed an application for a license to store spent fuel at a site in Pigeon Spur, Box Elder County, Utah. That application was assigned a docket number, but no notice of hearing was issued. The staff concluded in 1999 that the application was substantially inadequate and terminated its review. Therefore, no Licensing Board was ever constituted to review Peterson's application.

In 2000, Peterson attempted to intervene in the PFS matter but was denied entry because he did not show good cause for late filing, did not have standing, and did not offer a single litigable contention.¹ The Commission affirmed that conclusion on appeal.²

According to his appeal, Peterson proposes to build a combination 300-year storage facility and spent fuel reprocessing facility. Peterson's appeal asks the Commission to consider the country's great need for more power, specifically nuclear, and its corresponding need for more spent fuel storage.

The PFS licensing proceeding is not an open forum for discussing the country's need for energy and spent fuel storage. Our regulations provide procedures for qualified applicants to obtain licenses for safely operated nuclear facilities. If Peterson believes he is qualified to operate a nuclear storage or reprocessing facility, he must comply with those prescribed licensing procedures.

The Board, therefore, was correct in dismissing Peterson's "Petition to License Pigeon Spur Interim Spent Nuclear Fuel Storage Facility," and we affirm.

IT IS SO ORDERED.

For the Commission

/RA/

Annette L. Vietti-Cook
Secretary of the Commission

Dated at Rockville, MD
this 2nd day of March 2004

¹Private Fuel Storage L.L.C., (*Independent Spent Fuel Storage Installation*), LBP-00-23, 52 NRC 114 (2000), *reconsideration denied*, unpublished order, Sept. 25, 2000.

²Private Fuel Storage L.L.C., (*Independent Spent Fuel Storage Installation*), CLI-00-21, 52 NRC 261 (2000).

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing COMMISSION MEMORANDUM AND ORDER (CLI-04-07) have been served upon the following persons by deposit in the U.S. mail, first class, or through NRC internal distribution with copies by electronic mail or facsimile as indicated.

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[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 2nd day of March 2004