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 300-year SNF disposal solution  
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UNITED STATES OF AMERICA  
 NUCLEAR REGULATORY COMMISSION  
 BEFORE THE ATOMIC AND SAFETY LICENSING BOARD

In the Matter of	)	NOTICE OF APPEAL
	)	to the NRC Commissioners
U.S. DEPARTMENT OF ENERGY - DOE	)	Jaczko, Svinicki, & Klein
License Applicant Appellant	)	
v.	)	(High-Level Waste Repository)
	)	license application speculation
U.S. NUCLEAR REGULATORY - NRC	)	
COMMISSION, Licensor Appellee	)	Before the A&SL Board
	)	
& v.	)	Docket No. 63-001-HLW
	)	
William D Peterson, 300-year spent nuclear	)	SLBP Nos. 09-892-HLW-CAB04
fuel permanent disposal solution	)	
Third Party License Appellant Applicant	)	November 12, 2009

MOTION FOR WAIVER per 10 C.F.R. § 2.335

William D. Peterson and 300-year spent nuclear fuel (SNF) permanent disposal solution, Third Party License Applicant Appellant, requests an exception per 10 C.F.R. § 2.335 (b). Questions are asked: Is the intent in this matter to bury and close the nuclear power industry? If so, putting unprocessed SNF into geological storage in Yucca Mountain (YM) for an uncomprehensible length of time (10,000 years to one million years) is going to bring the nuclear power industry to closure for the U.S., will it not?

Or is the intent here to solve the SNF disposal issue to enable use of nuclear power to enable the production of electricity and the manufacturing of hydrogen, to enable the U.S. to have power independence, to improve the nation's economy, and to slow global climate change (GCC)? Then the U.S. needs to dispose of SNF by the 300-year SNF permanent disposal solution, does it not? Ref. SECY-09-0009\*. Having the

300-year SNF disposal solution available is a special circumstance which needs the consideration of the Commission.

#### MOTION TO APPEAL

William D Peterson with the 300-year spent nuclear fuel permanent disposal solution, Third Party License Applicant Appellant, moves to appeal the A&SL Board's order of October 28, 2009, and subsequent affirmation of November 10, 2009, for his Motion for Reconsideration denying his Petition for Intervention, appealing to the NRC Commission: Chairman Gregory Jaczko, Commissioner Kristine Svinicki, and Commissioner Dale Klein.

The matter is apparently for continuing construction of Yucca Mountain (YM) for spent nuclear fuel (SNF) disposal. Should DOE and NRC assert moving forward by the design of the Congress, when actually EPA is responsible for the method of SNF disposal per the U.S. Court of Appeals – D.C. Circuit July 9, 2005, order in Case No. 01-1258?

The YM storage system does not include processing of the SNF and recovery of the 97% part of it that is potential fuel, separation of the hot, problem materials cesium and strontium, and cleaning up the fission waste making it low level Class-C in 300-years, as does Peterson's solution. YM disposal will not work to enable the U.S. to manufacture nuclear-electricity and hydrogen to enable the U.S. to become energy independent, which must happen at this time of approaching end-of-oil, end of credit to continue deficit, and end of fossil fuel burning to fix Global Climate Change (GCC), as does Peterson's 300-year SNF disposal solution with its 5-9s (99.999%) separation of transuranics from the fission waste.

For decades DOE has not been able to do disposal of SNF apparently believing and saying they need an act of the Congress to do something different, when the D.C. Circuit Appeals Court has determined that the latitude of how SNF is disposed of is to be determined by EPA, considering recommendations of the National Academies of the

Sciences (NAS). If EPA does not somewhat align with NAS, it would be EPA that would have to return to Congress, not DOE or NRC. This is not understood!

Peterson works to do 300-year disposal of SNF to enable nuclear-electricity and hydrogen to replace oil and coal, to enable the U.S. Department of Commerce (DOC) to balance international trade, which problem Operations Research Annalist Engineer Peterson sees being the fundamental cause of deficit. Peterson estimates 1,150 new nuclear power plants are needed as soon as they can be built, requiring five SNF storage facilities.

Peterson moves the Commission to see this matter and find that to proceed to do SNF disposal will require a directive from EPA after reviews and considerations from NAS, Peterson, DOE, and NRC, which use of input is optional to EPA. EPA's being cognizant over SNF technique has been confused by DOE and NRC's opinion that Congress has required YM as a solution; whereas, the Court in 01-1258 ordered that YM is only a starting point for EPA's determining the SNF disposal solution. On the other hand, EPA is denying the responsibility saying they do not have legal purview to specify how SNF is to be disposed of.

Peterson moves the Board's opinions of him, his 300-year SNF Disposal Solution, and his related works be seen by the NRC Commissioners so that SNF disposal issues can be rightly resolved, for all relevant parties.

Dated this Thursday, November 12, 2009.

William D (Bill) Peterson, M.S., P.E., pro se  
300-year SNF permanent disposal solution

**\*NRC SECY-09-0009:** The Commission has authority to review decisions of Presiding Officers and the Atomic Safety and Licensing Boards. The Office of Commission Appellate Adjudication (OCAA) assists the Commission in this adjudicatory role by monitoring cases and preparing the Commission's appellate decisions. The Commission may exercise appellate authority either when a dissatisfied party to an NRC adjudicatory proceeding seeks review of a board's or presiding officer's decision, or when the Commission, on its own initiative, determines that review is warranted. The Commission may also offer guidance to the licensing boards on significant novel questions raised in an ongoing proceeding, as when a board certifies a question or refers a ruling to the Commission. In addition, NRC regulations give the Commission original jurisdiction to resolve particular categories of adjudications, such as reactor license transfer cases.

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October 5, 2009

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

In the Matter of	)	CERTIFICATE OF SERVICE
	)	
U.S. DEPARTMENT OF ENERGY	)	Docket No. 63-001-HLW
License Applicant Appellant	)	
v.	)	(High-Level Waste Repository)
	)	license application speculation
U.S. NUCLEAR REGULATORY	)	
COMMISSION, Licensor Appellee	)	Before the A&SL Board
	)	
& v.	)	ASLBP Nos. 09-876-HLW-CAB01
	)	09-877-HLW-CAB02
William D Peterson, 300-year spent nuclear	)	9-878-HLW-CAB03
fuel permanent disposal solution	)	09-892-HLW-CAB04
Third Party License Applicant Appellant	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing PETITION FOR ADMISION - CONTENTIONS for the NRC staff for production of documents asserted as privileged by NRC Staff. Under 10 C.F.R. Part 2, Subpart J, and MOTION to enter as a Third Party License Applicant dated November 12, 2009, have been served upon the following persons by Electronic Information Exchange.

Dated this 12<sup>th</sup> day of November, 2009.

William D Peterson, 300-year spent nuclear  
fuel permanent disposal solution  
Third Party License Applicant Appellant

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ASLBP (continued)**CAB 04**

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