

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

Thomas S. Moore, Chairman
Paul S. Ryerson
Richard E. Wardwell

In the Matter of
U.S. DEPARTMENT OF ENERGY
(High Level Waste Repository)

Docket No. 63-001-HLW

ASLBP No. 09-892-HLW-CAB04

December 30, 2009

ORDER

(Denying William D. Peterson Motion)

Before us is yet another filing by William D. Peterson dated December 23, 2009 titled "PETERSON'S motion for a THREE (3) YEAR ECONOMY RECOVERY PLAN, PLAN FOR SNF DISPOSAL AND FUEL INDEPENDENCE, and plan for CO₂ reduction for slowing Global Climate Change" (Peterson Motion). Although the purported subject of the filing, as the title suggests, covers a number of topics, the gist of the sought relief is illustrated by the last paragraph stating that:

Peterson moves the Hearing Judges find that as EPA has the responsibility of specifying how SNF is to be disposed of, DOC [Department of Commerce] would have the responsibility of specifying that U.S. commerce with other nations must balance. Peterson moves EPA [Environmental Protection Agency] must work with DOE [Department of Energy] and NRC to achieve U.S. energy independence. Peterson likewise moves that the DOE must work with Treasury and Department of the Interior and regulate coin and commerce to fix the deficit. Peterson moves for U.S. fuel independence in three years, then consideration of his plan (not herein provided) for fiscal independence.¹

Mr. Peterson's December 23, 2009 motion is denied. The movant is not now and never has been a party to the High Level Waste Repository proceeding. Because Mr. Peterson is not

¹ Peterson Motion at 5.

a party to the proceeding, he has no right or entitlement to file any pleadings, regardless of how captioned, in Docket No. 63-001-HLW.

Mr. Peterson filed an intervention petition on October 5, 2009.² In an order dated October 28, 2009,³ Construction Authorization Board 04 (CAB-04 or Board) denied that petition for being filed, without adequate excuse, over nine months past the 60-day deadline for intervention petitions set by the Commission's October 22, 2008 hearing notice.⁴ In denying his intervention petition, the Board also found that Mr. Peterson had failed to establish his standing to intervene and that he had failed to proffer any admissible contentions – two additional essential prerequisites for the grant of an intervention petition.⁵ On November 6, 2009, Mr. Peterson filed a purported supplement to his already denied intervention petition that the Board generously treated as a motion for reconsideration of its earlier order.⁶ By order dated November 10, 2009, the Board denied the motion for reconsideration.⁷ Thereafter, in pleadings ostensibly dated November 12 and 13, 2009, Mr. Peterson sought to appeal to the Commission

² Petition for Admission (Oct. 5, 2009).

³ CAB Order (Denying Intervention Petition) (Oct. 28, 2009) (unpublished).

⁴ See U.S. Department of Energy (High Level Waste Repository); Notice of Hearing and Opportunity to Petition for Leave to Intervene on an Application for Authority to Construct a Geologic Repository at a Geologic Repository Operations Area at Yucca Mountain, 73 Fed. Reg. 63,029, 63,030 (Oct. 22, 2008).

⁵ CAB Order (Denying Intervention Petition) (Oct. 28, 2009) at 1 (unpublished).

⁶ Supplement to Petition to Enter (Nov. 6, 2009).

⁷ CAB Order (Denying Motion for Reconsideration) (Nov. 10, 2009) (unpublished).

the denial of his intervention petition.⁸ That appeal is pending before the Commission along with a December 2, 2009 motion titled "MOTION FOR A PLAN AND SCHEDULE."⁹

As is evident from Mr. Peterson's latest filing, he apparently fails to understand, or refuses to accept the fact, that his failure to be admitted as a party to the High Level Waste Repository Proceeding precludes him from participating in any manner in the formal ongoing proceeding. Further, in light of his earlier denied petition and subsequent pleadings, the Board is frank to state that it is exceedingly unlikely that Mr. Peterson could meet the Commission's regulatory requirements for being admitted as a party to the proceeding. Because he nevertheless continues to file pleadings, we hereby bar Mr. Peterson from filing any further pleadings in the High Level Waste Repository Proceeding, Docket No. 63-001-HLW, or sending any emails to the Judges such as the one addressed to Judge Thomas S. Moore dated December 29, 2009,¹⁰ unless and until the Commission reverses the Board's October 28, 2009

⁸ In a filing dated November 12, 2009, but apparently electronically submitted on November 13, 2009, Mr. Peterson sought to appeal the denial of his intervention petition and the subsequent denial of his motion for reconsideration. Motion for Waiver Per 10 C.F.R. § 2.335 (Nov. 13, 2009). This filing, although identified in two separate places as before the "Atomic and Safety Licensing Board," notes in the caption that it is a "NOTICE OF APPEAL to the NRC Commissioners." In support of this appeal, Mr. Peterson filed another pleading, dated November 13, 2009, whose Certificate of Service carries various dates from November 5 through November 16, 2009, and which apparently was not electronically submitted until November 17, 2009. Memorandum [in Support of Notice of Appeal] (Nov. 17, 2009). Again, while this pleading identifies itself as before the "Atomic and Safety Licensing Board," it is also captioned "MEMORANDUM in support of NOTICE OF APPEAL EPA is responsible for SNF" before the NRC Commissioners.

⁹ Motion for a Plan and Schedule (Dec. 2, 2009).

¹⁰ Mr. Peterson's December 29, 2009 e-mail is attached to this order.

Order denying his intervention petition. Further, by this order, we instruct the Secretary of the Commission to strike any pleadings filed by Mr. Peterson in derogation of this order.

It is so ORDERED.

THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Thomas S. Moore, Chairman
ADMINISTRATIVE JUDGE

/RA/

Paul S. Ryerson
ADMINISTRATIVE JUDGE

/RA/

Richard E. Wardwell
ADMINISTRATIVE JUDGE

Rockville, Maryland
December 30, 2009

ATTACHMENT

From: William D Peterson [paengineers@juno.com]
Sent: Tuesday, December 29, 2009 8:53 AM
To: Moore, Thomas
Subject: May I appeal DOE v NRC Docket No. 63-001-HLW instead of it being withdrawn

Judge Thomas S. Moore
Chair – Administrative judge

December 29, 2009

Ref: Request to consider appeal of DOE v NRC Docket No. 63-001-HLW
To U.S. Court of Appeals for the District of Columbia Circuit, Case No. 01-1258

Honorable Judge Moore,

As Governor of the State of Utah from 1993 to 2003, Michael Leavitt did everything he could to foil storage of spent nuclear fuel. With the attitude he had against nuclear power, I don't see how he could possibly function as Administrator of EPA from 2003 to 2005. I don't believe his attitude of stopping nuclear power has ever changed. He should have implemented the July 9, 2004 court order in Case No. 01-1258. I believe that Leavitt sabotaged nuclear power by ignoring that order.

Pleadings that I have submitted show that DOE is attempting to seek a NRC license to pursue a disposal solution for spent nuclear fuel (SNF) without there being a solution recommendation from the Environmental Protection Agency (EPA) it being based upon a recommendation from the National Academies of Sciences (NAS) as required per a July 9, 2004 order of this Court in Case No. 01-1258.

2003-2005 EPA Administrator Michael Leavitt wrongly failed to implement the 2004 Court order, which failure to do has stalemated progress of SNF disposal and America's nuclear power development. Also, this appellant's 300-year SNF permanent disposal solution should at that time been considered over the one million year or 10,000-year storage requirement, which was previously the only options available.

Peterson's third party standing in DOE v NRC Docket No. 63-001-HLW is currently on appeal before the NRC Commissioners Gregory Jaczko, Kristine Svinicki, and Dale Klein. Peterson concurs with the NRC's attorney Adam Gendelman in his December 14, 2009 pleading, that certain matters, which would include a lack of a directive from EPA consistent with a recommendation from NAS cannot be pursued by NRC. These matters have been a subject of this Court in Case No. 01-1258 which now requires further clarification and amplification of the Court's 2004 order.

Possibly only I could make such an appeal since I have the real time solution of 300-year SNF permanent disposal. May I discuss with you my idea of appealing DOE v NRC Docket No. 63-001-HLW to the United States Court of Appeals for the District of Columbia Circuit, who wrote the order in Court in Case No. 01-1258.

Sincerely yours,

William (Bill) D Peterson
300-year SNF permanent disposal solution
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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
U.S. DEPARTMENT OF ENERGY)
)
(High-Level Waste Repository))
)

Docket No. 63-001-HLW
ASLBP No. 09-892-HLW-CAB04

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB Order (DENYING WILLIAM D. PETERSON MOTION) dated December 30, 2009, have been served upon the following persons by Electronic Information Exchange.

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U.S. DEPARTMENT OF ENERGY (High Level Waste Repository) Docket No. 63-001-HLW
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[Original Signed by Christine M. Pierpoint]
Office of the Secretary of the Commission

Dated at Rockville, Maryland
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