

William (Bill) D. Peterson, with
 300-Year SNF Disposal &
 3-Year Recovery Plan,
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UNITED STATES COURT OF APPEALS
DISTRICT OF COLUMBIA CIRCUIT
 333 Constitution Avenue, NW, Room 5523
Washington, DC 20001-2866
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William (Bill) D. Peterson, P.E., Engineer for
 300-Year SNF Disposal Solution &
 3-year Fuel Independence Plan
 Plaintiff -Appellant

MOTION

vs.

Case No. 10-1007

United States of America
 Nuclear Regulatory Commission et al.*
 Atomic Safety and Licensing Board
 Defendant - Appellees

Ref: July 9, 2004 order
 in
 Case No. 01-1258

* Spent Nuclear Fuel plan Defendant – Appellee parties are: NRC - Nuclear Regulatory Commission, DOE - Department of Energy, EPA - Environmental Protection Agency, NAS - National Academies of Science, and NEI - Nuclear Energy Institute.

* Fuel and Economic recovery plan Defendant – Appellee parties are: DOC - Department of Commerce, DOL - Department of Labor, DOT - Department of the Treasury, FTC -Federal Trade Commission, and the TPCC - Trade Promotion Coordinating Committee

* Other Federal Administrative parties of interest are: Former Nuclear Waste Negotiator, Idaho Congressman Richard Stallings, and President Barack Obama.

Motion to find activity of NRC, DOE, & EPA is unlawful

a) The Congress has ordered EPA, DOE, and NRC is to dispose of spent nuclear fuel (SNF). b) This Court in Case No. 01-1258, in its order of July 9th, 2004, ordered that EPA is to consider recommendations of the National Academies of Sciences (NAS), then EPA is to decide and say how SNF is to be disposed of, that is provided there is some compliancy with NAS recommendations. c) EPA, DOE, and NRC have not complied with the 07-09-04 order of this Court. d) Instead DOE and NRC have been attempting to do deep geological disposal of SNF in

Yucca Mountain (YM), doing this with no method requirement stipulation from EPA and doing it without it being recommended by NAS.

e) In his pleadings, Peterson has brought this Court's July 9th 2004 order in 01-1258 to the attention of the Government's Attorney Stephanie N. Liaw. f) The stipulation of the order in 01-1258 that EPA with NAS are to determine how SNF is to be disposed of was not denied so is deemed admitted. g) Likewise the FEATURES & ISSUES Differences, and Controverted Issues between YM storage v Peterson's 300-year solution written in Peterson's October 2nd, 2009 pleading are admitted. h) Furthermore, on February 2nd, 2010, President Obama ordered closure of Yucca Mountain. i) By their admissions, Peterson **moves** the Court for an order that NRC, DOE, EPA, and NAS have agreed that the Court's July 9th, 2004 order in 01-1258 is the law, and Peterson's 300-year SNF disposal solution is a solution by which SNF can be disposed of.

j) Peterson **moves** that the Court find that by the defendant[s] failure to deny, they have agreed that Peterson's 3-year Fuel Independence Plan should be proceeded with, with all haste, which includes an immediate dispersement from the Nuclear Waste Deposits of \$20 million to Peterson to proceed with NRC licensing of his Pigeon Spur SNF storage site, and also to proceed with planning, construction, and operation of 50 new nuclear power plants to manufacture nuclear-electric hydrogen for fuel for 10% of the nation's transportation, and to convert 40% of transportation to be fueled by natural gas (CNG), and then hopefully the use of U.S. oil will be able to fuel the remaining 50% of vehicular power. k) Thus, the U.S. would be relieved from the importing of oil, which has been paid for by deficit spending. l) We then would proceed with further, constructing 450 more nuclear power plants for U.S. total independence from petroleum for ground transport vehicles. m) Using hydrogen or CNG to fuel aircraft will be a challenge.

**Motion to Proceed with 3-year Fuel Independence Plan
Answer to NRC's Motion for Summary Reversal**

n) Peterson works to do disposal of spent nuclear fuel (SNF). o) Peterson came into this work from a solicitation of the 1987 to 1993 nuclear waste negotiators David Leroy for President

Bush and Richard Stallings under President Clinton. p) The U.S. Nuclear Regulatory Commission (NRC) assigned Docket No. 72-23 to Peterson's 1998 license application for SNF storage at Pigeon Spur. q) A license application for Docket 72-23 was twice submitted a decade ago but Peterson was not able to continue the applications because promised funding did not happen. r) Peterson has not been able to obtain funding, from the approx. \$60 billion fund created by the nuclear power utilities to pay for SNF disposal, where DOE et al. has been maintaining that the Congress will only allow YM to be the disposal solution. s) Their stipulation of YM was and is wrong per order in Court case 01-1258.

- t) They have never accepted and applied this Court's July 9th, 2004, order in Docket No. 01-1258. u) Accompanying memorandum below supports this motion.
- v) Dated this 22nd Day of February 2010.

William (Bill) D. Peterson, P.E., Engineer for
300-year SNF permanent disposal solution and
3-year plan for fuel independence and economic recovery

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Motion to find activity of NRC, DOE, & EPA is unlawful and the below Motion to Consolidate the right Issues with the right Parties was sent to the Clerk's office of the Court by U.S. Mail, and electronically sent by Email on February 22, 2010 to the following:

NRC Commissioners Gregory Jaczko, Kristine Svinicki, & Dale Kline:		
	via: Emile Julian	Emile.Julian@nrc.gov 301-415-1677
NRC Board Judges Thomas S. Moore, Paul S. Ryerson, & Richard E. Wardwell:		
	via: Linda Lewis	Hearing.Docket@nrc.gov 301-415-1675
NRC counsel Stephanie Liaw		Stephanie.Liaw@nrc.gov 301-415-1354
DOE	Atty. Ben McRae	ben.mcrae@hq.doe.gov 202-586-4331
EPA	Scott Fulton	richard.ossias@epa.gov 202 564-7606
NAS	James F. Hinchman	webmailbox@nas.edu 202.334.2440
NEI	Mike Bauser	mab@nei.org 202-739-8144
DOC	Art Aronoff	aaronoff@doc.gov 202-482-0937
DOL	Craig Hukill	hukill.craig@dol.gov 202-692-5260
DOT	Russell Munk	russell.munk@do.treas.gov 202-622-1899
TPCC	Patrick Kirwan	patrick.kirwan@trade.gov 202-482-5455
FTC	Willard K. Tom	wtom@ftc.gov 202-326-2424
Nuc Negotiator Richard Stallings		rstallings@allidaho.com 208 241 6049
President Obama via: Bob Bauer		whitehousecounsel@who.eop.gov 202-456-1258

§ 2.309 Hearing requests, petitions to intervene, requirements for standing, and contentions.

(f) Contentions. (1) A request for hearing or petition for leave to intervene must set forth with particularity the contentions sought to be raised. For each contention, the request or petition must:

(i) Provide a specific statement of the issue of law or fact to be raised or controverted, *provided further*, that the issue of law or fact to be raised in a request for hearing under 10 CFR 52.103(b) must be directed at demonstrating that one or more of the acceptance criteria in the combined license have not been, or will not be met, and that the specific operational consequences of nonconformance would be contrary to providing reasonable assurance of adequate protection of the public health and safety;

Differences, Controverted Issues, List of Contentions

FEATURE / ISSUE	Ref § 2.309 (f)	
	300-Yr Solution	Yucca Mountain (YM)
Complies with July 9 th 2004 Court Order Court of Appeals D.C. Circuit No. 01-1258	Yes	No
SNF stored underground	12 feet / concrete	> 900 feet / earth
Near a railroad spur	yes < 1 mile	no, 200 miles
Each canister accessible	yes, crane lift cap	no, end to end tunnels
Efficiently cooled in storage	yes, convection air	no, 10,000 HP air fans
Protective from missile attack	yes, underground	yes deep underground
Protective from aircraft impact	yes, underground	yes deep underground
SNF processed	yes, 5-9s separation	no (97% fuel wasted)
Finite storage period	yes, 300 + 500 yrs	no, one million years
Fission waste disposed of as Class-C	yes, in 300 years	no
Fission waste disposed of as Class-A	yes, in 800 years	no
Transuranics used in new fuel	yes, <1% of SNF	no
U-238 uranium recovered	yes, 96% of SNF	no
Facility construction cost	~\$6 billion	\$60 billion
Time to construction completion	~4 years	10 years
Time until public allowed re-entry	800 years	never, > million years
Percentage of fuel initially used	~ 3 %	~ 3 %
Percentage of fuel ultimately used	~ 100 %	~ 3 %
Percentage of fuel wasted	~ 0.0 %	~ 97 %
Would have capacity for GNEP	yes	no
NRC license application ever submitted	yes, twice	yes
Is a solution for SNF for Nuc-hydrogen	yes "300-yr method"	no, YM lacks capacity

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Motion to Consolidate the right Issues with the right Parties

1) DOE v NRC Docket No. 63-001-HLW is an attempt to do something to dispose of spent nuclear fuel (SNF). 2) But DOE does not have a single logical scientific plan for what to do with SNF. 3) Yucca Mountain (YM) is an impractical political concept representing security.

4) The growing need for SNF disposal is stymieing the growth of nuclear power. 5) The failure of the U.S. to manufacture its own fuel to replace importing of foreign oil has put the U.S. into a nigh on impossible economic situation. 6) The two problems of SNF disposal and the U.S. deficit are very real, they are very related, they are actually the same issue.

7) The U.S. has had an abundance of oil, but mostly used it. 8) Instead of developing nuclear-electricity hydrogen, the U.S. has turned to buying oil from 90+ other countries by way of very unwise borrowing and imbalances of trade. 9) To do this the U.S. has borrowed money outside of the U.S. monetary system, including borrowing two trillion dollars from China. 10) This is such a large amount of money that the U.S. government apparently has not had other sources to obtain such funding otherwise and appears not to have a way to repay its international debt. 11) The citizens should be told all about the international debt of the country. 12) It needs to be explained and justified, what collateral is put up, the terms of the loan, why this money is being borrowed outside of the U.S. monetary system instead of using Section 16 tax money, and how it is proposed to be paid back. 13) What is happening here is not understood, a bad practice, probably an unlawful practice for not taxing the nation itself for revenues, instead of borrowing offshore, outside of the country. 14) It set a very bad precedence of unconstitutional offshore banking.

15) The workings of the deficit are not understood but hidden from the public. 16) And the details of the deficit are apparently also hidden from and not understood by the congress. 17) Who in the Government has borrowed this money for the U.S.? 18) If the citizenry of the U.S., including the Congress knew that when oil is imported, or when a foreign made car, electronics, tools, etc. are purchased in the U.S., when the cost of those items are paid for, purchase money goes to the companies and workers abroad. 19) When purchasing U.S. dollars go abroad to buy foreign made goods and services, that amount of money leaving the U.S. economy has to be replaced by Government deficit for the U.S. economy to continue. 20) It's also our jobs that are being exported. 21) If the Congress and public knew what has been happening, and what is continuing to happen, they probably would not be so quick to buy the foreign stuff, but would purchase "Made in America" products instead. 22) Our nation's buying foreign oil is the single biggest issue that requires deficit buying relief. 23) When commerce is so far out of balance as it is, when a trillion dollars per year is going abroad for commodities coming in, it is deficit that may

not be possible to repay except by yielding over the Country. 24) Who has caused this and who has allowed this to happen? 25) It can be the downfall of our nation!

26) From the time when YM was begun, DOE has been telling Peterson that geological burial in YM is the only way that the Congress will allow disposal of SNF. 27) From that time Peterson has been telling DOE YM is a bad idea. 28) Not until this Court's July 9th 2004, court order in Case No. 01-1258 has some reality come into the Government's political extreme of the unfathomable long time inaccessible storage. 29) The Court's order in Appellate District of Colombia Circuit Case No. 01-1258 makes sense. 30) YM is only a suggestion from Congress. 31) Disposal of SNF is a highly scientific issue that needs to be studied and given good scientific directive from the National Academies of Sciences (NAS).

32) Peterson's selected parties in the matter 10-1007 are the right parties for the right issues. 33) And fortunately, this is the right Court to be seeing all of this because of its July 9, 2004 order in Case No. 01-1258. 34) It was unfortunate that Court's order was apparently ignored by then EPA Administrator, Michael O. Leavitt, who was an avid opponent to nuclear power.

35) Peterson **moves** that the Court **find** that the U.S. must use its nuclear energy resource to replace the use of the oil it is importing to curb further growth of the U.S. financial deficit being caused. 36) As the Court said in its 2004 order, this issue needs to be fully studied and carefully considered by (NAS) and by their recommendations, what is done with SNF must be by a directive of the U.S. Environmental Protection Agency (EPA), then implemented by DOE.

Motion to Consolidate 2nd Appeal into Docket No. 10-1007

37) For a decade Peterson has been promoting his 300-year SNF disposal solution to the DOE, NRC, and EPA. 38) For disposal of SNF, in Peterson's approach, the SNF is separated into three parts, each part then having its own issue. 39) Three percent is near term hazardous 30-yr and less half-life fission waste materials, 1% is 6000-year and longer half-life ever increasing hazardous transuranics materials, and 96% of the SNF is stable U₂₃₈ uranium. 40) With a

sufficiently high degree of separation, these three separate parts can each be treated successfully; whereas they could not if kept together.

41) With 5-9s separation (99.999%) of the transuranics, out 300-years the fission waste radiation reduces 1000 fold to low level waste Class-C. 42) The thousands of years out problem transuranics are in a reasonable time reused and consumed as fuel. 43) The 96% part that is U238 is simply stock piled like iron rods and eventually reused as a part of the fuel. 44) This makes sense. 45) It doesn't make any sense to just bury the SNF and have its problem boil for thousands into millions of years.

46) DOE, NRC, and EPA have believed that YM is the only way the Congress has allowed them to deal with SNF. 47) In the NRC Docket No. 63-001 HLW hearing, when Peterson brought forward the July 9th 2004 Court order in 01-1258, Peterson believes that it was something DOE and NRC did not want to see. 48) They wanted to ignore it. 49) And they still ignore EPA and NAS's role in the matter. 50) They could see that Peterson was coming on too strong as a serious forceful plaintiff thrusting out their YM, that they had been working on for nigh on two decades. 51) They knew that Peterson had not been rightly invited into this matter. 52) They feared that he would sink their YM. 53) But they were overreaching to accuse Peterson of not bringing differences, good features, and controverted issues to the table. 54) They apparently cannot deny a single one of the twenty-one items Peterson has put on a list in his October 2nd 2009 pleading.

55) On December 30, 2009, the board wrongly rejected the value of Peterson's 3-year plan for fuel independence. 56) They are still ignoring the July 9th 2004 order of this Court in the Docket No. 01-1258 in this matter. 57) So Peterson put the issue himself to the NRC Commissioners.

58) February 2nd, 2010 President Barack Obama ordered closure of YM. 59) This will take time. 60) During this YM shut down time, the three NRC Commissions are possibly not going to consider any further legal proceedings, including Peterson's appeal. 61) What difference would it

make? 62) At this point, what is the relevance of YM geological burial features? 63) Peterson's 300-year SNF disposal solution dwarf's the practicality of YM. 64) For the record, for its rightful review, Peterson **motions** to move his appeal with its list of twenty-one proffered admissible contentions before the Three NRC Commissioners in NRC Docket No. 63-001 HLW to Docket No. 10-1007 before the U.S. Court of Appeals for the District of Columbia Circuit.

Balancing Trade in "Three"-Years is Imperative

65) Nowhere in the U.S. Constitution is the Government allowed to seek and usurp coin from other nations and any other independent sources outside of our country to operate our nation. 66) Section 16 of the Constitution gives Congress power to lay and collect taxes apportioned among the states. 67) Going outside of the boundry of the states to borrow coin for operating capital for our nation would wrongly put everyone into debt unlawfully, without knowledge and beyond our control and representation. 68) Likewise, allowing those who want to import goods and services beyond balance of trade also puts every one of us into debt without our permission and knowledge. 69) Imbalance of trade is wrongful and not workable macroeconomics. 70) Creating economic deficit by borrowing coin from other countries to finance U.S. deficit is wrong and unconstitutional. 71) Peterson **moves** the Court to **find** responsibility to control and balance U.S. commerce (trade) with other nations is a requirement and responsibility of the Department of Commerce (DOC), the Department of Labor (DOL), the Department of the Treasury (DOT), the Federal Trade Commission (FTC) and the Trade Promotion Coordinating Committee (TPCC). 72) Peterson **moves** the Court to **find** that the U.S. Constitution requires that U.S. trade must be balanced with other nations to regulate Commerce and Coin:

73) It was around 1990 that engineer Peterson developed a model of the macro-economy of the U.S. with respect to the rest of the world. 74) It showed conclusively that trade money had to balance, or an impossible to deal with deficit would result.

75) The 16th Amendment reads:

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment **among the several states**, and without regard to any census or enumeration.

76) If the U.S. continues deficit spending the U.S. will eventually bankrupt, and the rest of the world with the U.S. 77) It is absolutely crucial that U.S. importation of oil be replaced by U.S. produced nuclear-electric hydrogen power, and to curtail deficit borrowing from other nations. 78) The U.S. must get energy independent. 79) And the U.S. must get financially independent.

80) The U.S. does not have capitalization to purchase more foreign goods and services than its revenues taken in for what it exports and sells. 81) Peterson **moves** that the court **find** that if the Congress and U.S. Government cannot obtain the revenues it requires for the country to operate, the Government and Congress may not go outside of the country to obtain funds. 82) Doing so would make a liability that may not be repayable except by the surrendering over of the nation.

83) The largest single issue in deficit borrowing is importing of oil, now from 90+ nations, around \$500 billion per year. 84) Other issues requiring limiting trade are foreign cars, electronics, tools, hardware, kitchenware home furnishings and foreigners doing U.S. labor in the U.S. or in their country (by phone or internet) with U.S. pay for labor going from U.S. abroad to produce income in their country.

85) This pleading is dated this 22nd Day of February 2010.

William (Bill) D. Peterson, P.E., Engineer for
300-year SNF permanent disposal solution and
3-year plan for fuel independence and economic recovery