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William D. (Bill) Peterson
Pigeon Spur Fuel Storage Facility
NRC Docket No. 72-23
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On
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UNITED STATES OF AMERICA
BEFORE THE
NUCLEAR REGULATORY COMMISSION

In the matter of the License Application of Private Fuel Storage (PFS) NRC Docket No. 72-22	!	REPLY & MOTION for FINDINGS
v	!	Ref: Third Party COMPLAINT
State of Utah & Governor, Intervener	!	for Intervener's use of State Law to deprive Peterson and PSFSF of rights Of Storage of SNF by Federal Law
William D. (Bill) Peterson Pigeon Spur Fuel Storage Facility (PSFSF) NRC Docket No. 72-23 Third Party Intervener & Plaintiff	!	Adjudications Staff And
v	!	Judge G. Paul Bollwerk, III, Chairman
State of Utah & Governor, Third Party Intervener & Defendant	!	Judge Dr. Jerry R. Kline Judge Dr. Peter S. Lam

Third Party Plaintiff & Intervener, Engineer Peterson is an individual working for storage of spent nuclear fuel (SNF) at the Pigeon Spur of the Southern Pacific Railroad in western Box Elder County, Utah. Where Peterson is attempting to license SNF storage in NRC Docket No. 72-23, Peterson has a "real stake" in the outcome of licensing the similar PFS project in NRC Docket No. 72-22. Utah's Governor Michael O. Leavitt has concerns with storage of SNF in Utah. PFS and NRC have less concerns with Governor Leavitt's concerns since they are avoiding Utah and Governor Leavitt by locating SNF storage on the sovereign property of the Skull Valley Band of Goshutes Indian Reservation. But Utah with Governor Leavitt have come

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SECY-02

into this matter as an intervener and the Governor's concerns are still not resolved for him and the State. The Governor's same issues apply to Pigeon Spur and to Peterson. Peterson with his site on Private land in Utah has not been able to discuss the Governor's concerns with him, or for that matter with anyone. Peterson makes a third party complaint and also petitions for intervention into this matter to resolve issues of concern to Utah and Governor Leavitt. Peterson makes a request for intervention per CFR part 10 § 2.714. Peterson also asserts as a citizen / person his right to have his grievance seen by the Government per his rights to "petition to the Government for a redress of grievance." Ref: (Bill of Rights), First Amendments to the Constitution of the United States.

Congress shall make no law respecting ... the right of the people ... to petition the Government for a redress of grievances.

Peterson files this reply in partial response pursuant to the Licensing Board's order of July 12, 2000. The Licensing Board is seeing an application of Private Fuel Storage (PFS) in NRC Docket No. 72-22. Peterson has a similar license application in NRC Docket No. 72-23. The Licensing Board should be seeing that application as well.

On about September of 1997, the State of Utah and its Governor intervened into the NRC v PFS licensing matter of NRC Docket No. 72-22. Since then intervener Utah and its Governor have done things that have delayed and thus have hurt and damaged Peterson with regard to the development of the PSFSF. On December 1 and 2 of 1997 Peterson made two separate applications to the State of Utah for SNF storage and SNF reprocessing. The State of Utah has not properly acted on Peterson's applications. Utah can only find and must find that primacy of the SNF matter is with the Federal Government. Instead the State of Utah and its Governor, intervener into NRC v PFS, has made unlawful judgment and issued statements saying "storage of SNF" is "morally wrong." Storage of SNF according to NRC Docket No. 72-22 PFS, and

NRC Docket No. 72-23 Pigeon Spur is a federal matter according to an order of the Congress and Utah has no position or standing to make any judgment of the federal (supreme) law.

CONSTITUTION OF UTAH, ARTICLE 1, Section 3.[Utah inseparable from the Union.] The State of Utah is an inseparable part of the Federal Union and the Constitution of the United States is the supreme law of the land.

December 27, 1997, less than one month after Peterson petitioned to Utah for the federal work of storage of SNF at Pigeon Spur, and three months after Utah's intervention into the matter of Docket 72-22, Utah's Governor announced a judgment of the federal law - saying "It is morally wrong." This was a defiance of and an attack on the implementation of both federal and Utah law. This was an attack on PFS's doing SNF storage in the federal law. This was likewise an attack on Peterson's doing SNF storage in the federal law. This attack has clearly damaged Peterson where it has influenced efforts to have the issues of SNF storage seen by county residents, county commissioners, State representatives, and Utah's representation to Washington. See an attached copy of the Deseret News article of December 27, 1997. PFS is asserting shielding from the Governor's attack, maintaining that its site is on sovereign Indian land.

Peterson is a party to the cause of storage of SNF in Utah, ref NRC Docket No. 72-23. The NRC is seeing these issues in Utah and Utah has intervened as a party. Peterson has "Bill of rights No. 1" Constitutional authority to see this matter in the tribunal of the NRC court. This federal right is likewise reflected in Utah law:

Constitution of the State of Utah

Article I, Sec. 11 [Courts open - Redress of injuries.]

All courts shall be open and every person, for an injury done to him in his person, property, or reputation, shall have remedy by due course of law, which shall be administered without denial or unnecessary delay, and no person shall be barred from prosecution or defending before **any tribunal** in this State, by himself or counsel, any civil cause to which he is a party.

The Agency and attorneys for Private Fuel Storage have responded to Peterson's Petition

to Intervene and Third Party Complaint. By Peterson's prior application for storage of SNF in Utah and by assignment of NRC Docket No. 72-23, Peterson is a party to any and all Utah activity concerning storage of SNF in Utah. Peterson entered this subject at the time of and with the Nuclear Negotiators David Leroy and Richard Stallings. The Agency knew Peterson was a party to SNF in Utah in 1997 and knew that Peterson was disputing the issue of primacy with the State of Utah. When Utah entered the NRC proceeding as an intervener, this had to include Peterson who is already in the matter. Peterson had already made his notice. Nevertheless the Agency represents that it has five (5) lateness factors and obliges the petitioner to address them and provide a balance of the five factors to warrant overlooking the petitioner's lateness. Again, to this the petitioner first responds that he has First Bill of Rights benefits which requires that "the congress, i.e. the federal agency can make no rule or law respecting Peterson's right to petition for a redress of grievances in this issue." Mind that Peterson is one of the people, a citizen, and the first article of the bill of rights make an exception which Agency must recognize. The Agency cannot exempt Peterson from entering this matter by [any] rule or [any] factor.

First factor - "good cause" for the lateness of the petition. NRC v PFS is not the issue that troubles Peterson. The issue that troubles Peterson is Utah and its Governor v PFS and NRC which also applies to Pigeon Spur. The problem issues were/are made by intervener Utah, not NRC, not PFS. This strongly started after September 1997, after the intervener petitioning time. This strongly started after Peterson's December 1, 1997 petition to Utah for storage of SNF. See Governor Leavitt's notice of assault, Deseret News, December 27, 1997, "Leavitt digs in against N-waste project." NRC v PFS now has the same problem with Representative Jim Hansen, Hill Air force Base, and Tooele Army Depot. Except, none of these have rights in the First Article of the Bill of Rights, as Peterson does, where they are government agencies, and not one of the people.

Utah has a Division of Radiation Control Board for seeing radiation matters. December 1 and 2 Peterson made application to Utah's DRC Board for it to see SNF storage and SNF reprocessing. Utah laws require the board first see the issue for primacy. Primacy of SNF storage is with the federal government. Secretary Sinclair of the Utah DRC Board responded and required that Peterson's matter first be seen by NRC. Promptly, in 1998, NRC assigned Peterson's project Docket No. 72-23. Then, before Utah would make its review, Secretary Sinclair made a new requirement that Peterson make his License application to NRC. It took Peterson and his staff nearly a year to do this; on October 19, 1998, Peterson submitted a license application to NRC. Still the DRC Board has not seen the issue. Around the first of 1999 DRC Board Chairman told Governor Leavitt that the DRC board had to find that primacy of Pigeon Spur was with the Federal Government. Instead of the DRC board making that finding, Governor Leavitt replaced Board Chairman Robert Hoffman. Peterson has made repeated requests that the DRC Board see his applications. Peterson has repeatedly been told that the Governor does not want this issue seen. In the last DRC meeting attended by Peterson, Secretary Sinclair asked Peterson "aren't you broke yet?" The Governor and Utah intend to break Peterson both spiritually and financially before they will see Peterson's request and issue a finding that the SNF storage issue has "Federal" primacy, and is not a matter that the State can "control" or "license". This is a huge cause for PFS: PFS is locating on sovereign Indian land just to avoid this issue. The "primacy" issue is issue good cause that needs to be resolved for both PFS and Pigeon Spur by a finding that storage of SNF has primacy with the Federal Government.

Second factor - "the availability of other means to protect the petitioner's interest."

Peterson has made great efforts to have primacy resolved and have storage of SNF accepted in Utah. Peterson has taken the facts of SNF storage directly to the citizens of Box Elder County. For the past four consecutive years Peterson has shown SNF storage to the public at the Box

Elder County Fair. Note though, not once in all of this time has any U.S. Senator or Congressman or Governor sat with Peterson and discussed in detail the SNF storage issue. The Governor has found this issue to be a tar baby. One hundred and twenty two (122) Box Elder people have signed petitions in favor of the enterprise. Two have opposed, one opposed because its where he hunts rabbits, another opposed because he sees it being too costly. If Peterson can talk to people, using the facts, Peterson is convincing. As said before, PFS has the same problem. Congressman Jim Hansen has recently come forward with strong objections. Obviously PFS has not talked with Utah's Senators, Congressman, and its Governor, and done this talking independent of the misconceptions of Governor Leavitt. Note that for several years Peterson has been talking with Steve Peterson who is Jim Hansen's deputy in Ogden, Utah. Bill Peterson has convinced Steve Peterson that SNF storage in Box Elder County is a good thing. But Steve Peterson's enthusiasm may not be shared by Congressman Hansen. This is most likely because of demands upon Representative Hansen by Governor Leavitt.

In the past few years, Peterson has personally petitioned to and met with Utah Executive Director of Environmental Control, the Governor's Science Advisor, the Governor's Chief of Staff, Director of the office of Constituent affairs, and the Utah Speaker of the House. Only a month ago, in meeting with Dr. Dianne Nielson, UDEQ, Peterson asked again, "specifically why is the Governor opposing SNF storage in Utah?" Dr. Nielson replied only saying, "it's his policy". After five years of discussions, her best answer -- a month ago -- is "it's his policy". She does not know why the Governor is opposing storage of SNF in Utah. Actually, the Governor does not know why he is opposing SNF storage in Utah, except it's the politically expected thing to do. Meanwhile, in all of this politics, it is difficult to try to sell SNF storage in Utah to Senators Hatch, Bennett, and Congressman Hansen, Cook, and Cannon. Only recently, for a month now, Dr. Nielson says Governor Leavitt has a "policy" against SNF in Utah.

Technically, Peterson has seen only for a month that Governor Leavitt has a “policy” against SNF storage in Utah. Before that it was “Pink Clouds over his Grandmothers” house and SNF was “morally wrong.” Utah’s Governor, for that matter every Governor in the nation, needs relief from this issue. Politically, a governor has to oppose storage of SNF in his state of jurisdiction. The military secrecy, lack of scientific understanding, and the environmentalists have made this a politically scary issue. The NRC court needs to find primacy of this issue is with the Federal Government, otherwise states feel that they must protect their turf. The NRC court needs to declare primacy to give relief to Governor Leavitt.

Third Factor - “the potential contribution to the development of a sound record.”

Peterson sets forward that SNF is a solid that cannot become air-borne, cannot be a bomb, and as it is stored in canisters it is extremely well contained. A SNF storage facility 100 miles or even 40 miles from Salt Lake does not pose a threat to Salt Lake City. SNF has been and will be safely shipped and will not pose a serious hazard to the people of Utah. Peterson shows and teaches this to the concerned people he meets in Utah. This needs to be taught to Governor Leavitt, Senators Hatch and Bennett, and Congressman Hansen, Cook, and Cannon. This is already quite well understood by the Tooele, and Box Elder County Commissioners and their regions’ Utah State representatives. Peterson’s doing this teaching by opening up unbiased communication with these people will make a substantial contribution to both the PFS and Pigeon Spur projects. Without this, possibly neither project will see fruition. A finding that primacy of this matter is with the federal government would make a great contribution and very sound record.

Fourth Factor - “the extent to which the petitioner’s interest will be represented by existing parties.” Contrary to what the board writes, PFS and NRC are not seeing the scientific data of Governor Leavitt’s “policy”. Actually, the Governor does not have scientific support for

a so called "policy" against storage of SNF in Utah. It's a political issue. Two different science advisors to the Governor have said this to Peterson. The federal government has been withholding information about nuclear matters from the public for over half a century. In this same period of time Governors and leaders have been telling the public that they don't know what the government is doing to them in nuclear matters. Again, PFS and NRC are putting storage of SNF on the sovereign land of an Indian Reservation to avoid this subject, to avoid confrontation with U.S. citizenry, and to avoid confrontation with state agencies and a state governor. However, for Peterson to put SNF storage on private ground in Utah, he must teach the public and answer their concerns. Where Governor Leavitt has concerns, Peterson must address the Governor's concerns. Contrary to what the agency has written, the "scientific data of Governor Leavitt's 'policy'" will not be raised as part of the State of Utah's case and will not be addressed during the course of the proceeding. PFS and NRC will not admit that Utah has any right to see what they are doing on the Indian Reservation. And Utah and its Governor want only enough involvement to make an image that they are concerned. Actually, NRC, PFS, Utah, and Governor Leavitt can avoid the issues since on sovereign Indian land they actually do not have to be accountable to the American people. But for Peterson, he needs to know the concerns of Utah's Senators, Congressman, Governor, County Commissioners, Hill Air Force Base, and Bureau of Land Management. These concerns are important to the Licensing of both PFS and Pigeon Spur. This is very difficult. Utah and Gov. Leavitt actually do not want to see these issues. Only Peterson and the general public want to see and know these things. They need to be a part of the record. This intervention or third party action is needed so that these matters can be seen. These matters need to be seen for Peterson to satisfy the stands of the Government leaders who influence funding. These matters need to be seen for Peterson to obtain funding to develop Pigeon Spur. If NRC with PFS can do SNF storage in Utah, then Peterson should be

able to do SNF storage in Utah. Peterson is being injured where his project is being held up until these issues are seen. NRC is not seeing primacy. This matter needs an NRC finding that primacy is with the Federal Government. Such a finding will help and give the Governor relief.

Fifth Factor - "the extent to which the petitioner's participation will broaden the issues or delay the proceeding." Governor Leavitt has expressed an issue that SNF storage is "morally wrong". More recently, Dr. Dianne Nielson says the Governor has a "policy" against shipping and storage of SNF in Utah. The Governor has expressed issues that NRC and PFS need to resolve. Peterson simply wants these issues seen and wants to see if they can be resolved. This is not broadening the issues or delaying the proceedings.

Peterson brought these issues into this matter with his third party complaint or petition to intervene. Peterson's contentions in these issues should have been answered by Utah in a response to Peterson's third party complaint and petition to intervene. Utah did not answer. According to rule of law, where Utah did not answer Utah admits to the averments of Peterson's third party complaint and petition to intervene. Appropriately, based upon Utah's admissions, Peterson moves that the court issues the following findings:

Proposed Findings of Fact

The court finds that the Federal law has pre-empted spent nuclear fuel storage at the proposed PFS facility on the Skull Valley Goshute Indian reservation in Tooele County, Utah, and at the proposed Pigeon Spur facility in Box Elder County, Utah, and does not relinquish to the State of Utah any federal AEA power to oversee, license, or to regulate. Reference WCS v DOE Civil No. 7-97CV-202-X in the U.S. District Court for the Northern District of Texas, Wichita Falls Division, October 3rd 1997 order of Judge Joe Kendall.

Where the NRC court issues an order of primacy findings based upon the admission of Utah and Governor Leavitt, the matter of Peterson's intervention or the third party complaint of Peterson v Utah and Governor Leavitt is done. If it is in the interest of time, Peterson will forgo

further discovery with subpoenas if PFS and NRC do not see that the information is needed. Otherwise, Peterson moves that it is required that discovery information requested in the 17 John Doe subpoenas be obtained before a determination is made on the extent to which the petitioner's participation will broaden the issues or accelerate or delay the proceedings.

Governor Leavitt's Policy affects both PFS and Pigeon Spur:

Peterson comes into this matter because the "policy" of the Governor of the State of Utah affects the outcome of his license application in NRC Docket No. 72-23. The "policy" of Governor Leavitt is affecting the operation of PFS and its licensing. For example see the affected use of roads and lands by the State of Utah affecting heavy truck access from the railroad or access for a railroad spur. Likewise the "policy" could affect the operation of Pigeon Spur and its licensing. See that the State's funding of an adverse faction of the Goshute Indians can affect the licensing and operation of PFS. Likewise, the State of Utah's funding a faction adverse to Pigeon Spur could affect the licensing and operation of Pigeon Spur. The negative stand of Governor Leavitt towards the Federal issue of SNF storage will likely affect Utah's State and Federal representatives attitude of acceptance of the proposed PFS facility. Likewise, the negative stand of Governor Leavitt towards the Federal issue of SNF storage will likely affect Utah's State and Federal representatives' attitudes of acceptance of the proposed Pigeon Spur facility. Conversely if the Governor accepts the PFS facility its full acceptance would be immediate, and likewise for the Pigeon Spur facility.

The NRC staff points out that the Petitioner is mistaken that Governor Leavitt is an intervener. Peterson points out that the Governor by full intention is trying by every means available to influence and defeat storage of SNF on the Goshute Indian reservation. Likewise, the Governor will likely carry this campaign over and try by every means available to him to

influence and defeat the storage of SNF at Pigeon Spur. The NRC staff's comments on the bottom of page 5 of its paper show that even today, the NRC staff does not see Governor Leavitt intervening and influencing the outcome of licensing of storage of SNF in Utah in either the PFS facility or the Pigeon Spur facility. Peterson asserts that it is now timely that Governor Leavitt's "policy" be seen and dealt with.

It is wrong for the NRC Staff to question the timeliness of Peterson's petition to intervene to see the Governor's "policy" when NRC's Staff has not asked to see the Governor's "policy" which is affecting both License Applications.

The NRC, the Congress, the President, and the Electric Utilities have targeted putting SNF on an Indian reservation to avoid a confrontation with a state and its governor. In time, Peterson has decided that equipped with the reality of truth of SNF storage and reprocessing, it is most proper to confront the local population, the county, and also the State with the SNF issue. But when the State will not see the matter the situation is stymied. Governor Leavitt has listened to no science advisor, no environmental advisor, no university advisor, and no governmental advisor. Peterson knows this because the best of such people in Utah are on Peterson's advisory board, including former Utah DRC Board Chairman Hoffman. Peterson has actually obtained a copy of a State Government memo at the University of Utah Department of Engineering,. Those who had the memo were told they should not talk to anyone outside of the University about SNF storage, or it could jeopardize jobs and funding. Instead, they were instructed to refer inquiries to Officer Larry Dalton in Utah's Division of Wildlife Resources who Peterson found is a wildlife biologist and had absolutely no knowledge of nuclear matters

From: Larry Dalton
To: NROERP.JDALTON, NRDWRALL
Date: 5/19/97 11:17am
Subject: Goshute Indian Radionuclide Storage

I have been assigned to be UDWR's contact person on the

Goshute Indian's proposal for a radionuclide storage facility in Skull Valley and will coordinate with others in UDWR to provide DNR with sufficient information by June 5. Please recognize and appreciate the sensitive, confidential nature of information regarding this issue, since the Governor's desire is to stop placement of nuclear waste in Utah. To accomplish this goal, direct any inquiry on the subject issue to me.

Thanks.

Much has been said about Peterson's allowability to intervene. A strong case has herein been made for intervention. Peterson has petitioned to enter the matter as a third party plaintiff with a complaint against a third party participating defendant. Both Federal and State law have been shown which allow Peterson's entry as a third party plaintiff. No objection has been made and no law has been put forth to disallow Peterson coming into this matter as a third party plaintiff. Peterson moves to intervene. Peterson also moves for entry into the matter as a third party plaintiff complaining against Utah and Governor Leavitt as third party defendants.

Actually, Peterson is already in the matter.

The situation and the facts of the issue are changed. Actually, the situation and the facts are not known. This requires reopening the matter entirely.

However, Peterson seeks to narrow the issues and minimize litigation requirements and time. Utah did not answer the averments of Peterson's complaint. Based on the admissions of the State Peterson moves for the proposed findings on page 10 above. With the findings, Peterson will step aside and expedite the process.

Dated this 20th day of July, 2000.



William D. (Bill) Peterson, M.S., P.E.
Third Party Plaintiff, Petitioning Intervener

Deseret News, **METRO**, Section B, Page B1, Salt Lake / Davis / Utah Counties
Richard D. Hall, City Editor, 801-237-2100, Saturday, Dec 27, 1997

HEADLINE - Leavitt digs in against N-waste project

Tooele officials call governor's approach flawed

By Lucinda Dillon, Deseret News staff writer.

He won't compromise. He won't budge.

Gov. Mike Leavitt is digging his heels deep into Utah's sandy soil against a group's effort to build in Utah the nation's first repository for waste from nuclear power plants.

As the state's chief executive, the governor has claimed jurisdiction over one road so he'll be prepared, if necessary, to use it as a pawn. He has lobbied against the project in town meetings, state gatherings and with federal officials.

Now he says he will push state legislation that will "give the state a clear role" in whether or not the storage facility - cosponsored by an out-of-state company called Private Fuel Storage and the Skull Valley Band of the Goshute Indians - will be built.

"We don't want it here," Leavitt said recently in his monthly televised news conference on KUED. "It is morally wrong."

Tooele County Commissioner Gary Griffith said Friday the commission hasn't cast its ballot either way but that the governor's approach leaves much to be desired.

First, commissioners are still meeting with Private Fuel Storage officials to see how much money the project could bring to the county. "If it's no advantage to our county, we don't care whether it's safe or not - we don't want it.

Furthermore, commissioners "do not agree with the idea of opposing something" without a thorough look at the facts, he said, . . . and (Leavitt) hasn't looked at this."

But in his press conference, the governor indicated the decision was not the Tooele County commissioners' to make. "I don't think they ought to be jeopardizing the lives of 2 million Utahns," he said, for a project that could "financially benefit one county."

Leavitt told reporters he will do everything in his power to block the two entities from building the plant, which could handle 10.4 million spent nuclear fuel rods - approximately the number generated over a 15-year period. The proposed storage site is in Tooele County west of the Wasatch Front.

"This is the same area where a cruise missile flew around for two and a half hours" before it crashed, he noted. On Dec. 10, an errant cruise missile crashed into a cosmic-ray observatory at Dugway Proving Ground during a test flight.

The rods have a lethal shelf life of 10,000 years, Leavitt told reporters.

Although he is not yet prepared to talk about the legislation he hopes to get passed,

Leavitt took the strongest stand yet during the recent press conference.

"I don't think the people of Tooele want this," Leavitt said, adding that the area 40 miles west of the Wasatch Front already contains 44 percent of the Earth's germ warfare arsenal. "How much of a target for mischief do we want to be?"

In a controversial move, Leavitt recently asked the Utah Transportation Commission to take control of 26 miles of two-lane highway that stretches from Dugway to I-80 through the Skull Valley Indian Reservation. Tooele County had previously controlled the road.

Transportation officials who approved Leavitt's request to take over the road said it wasn't clear at the time of the Dec. 5 decision what control, if any, the move gives the state in future negotiations over the nuclear waste proposal.

At that time, Tooele County Commissioner Teryl Hunsaker told the state's Transportation Commission he and his colleagues were still studying the concept of bringing in the plant. "We have no intention of doing anything that is detrimental to the citizens of Tooele or the state of Utah," he said.

But Leavitt said recently officials and citizens should get used to his behavior.

"I'm looking for tools here," Leavitt said. "Clearly, control of that road is one."

Legislation is another, although it is not clear what the focus will be. "We are not far enough along that we can lay out the legislative proposals," said Vicki Varela, Leavitt's deputy chief of staff.

Executives with Private Fuel Storage have launched a publicity war of their own, charging Leavitt and his staff with a campaign of misinformed terror. "Skepticism and doubt" fanned by Leavitt's administration will be put to rest in a series of public hearings, said project manager Scott Northard.

Last month, company officials met with newspaper editorial boards to make their views known.

On Friday, Griffith reiterated that Leavitt's intrusion into the project resembles President Clinton's actions when he designated land in Southern Utah as the Grand Staircase-Escalante National Monument. "What he did was the same thing," Griffith said. "Bill Clinton said he was doing it for the good of the country, and (Leavitt) says he's doing it for the good of the state.

"It's the same thing."

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of Private Fuel Storage (PFS)

NRC Docket No. 72-22

State of Utah & Governor, Intervener

William D. (Bill) Peterson
Pigeon Spur Fuel Storage Facility (PSFSF)
NRC Docket No. 72-23
Third Party Intervener & Plaintiff

v
State of Utah & Governor,
Third Party Intervener & Defendant

CERTIFICATE OF SERVICE
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Adjudications Staff
And

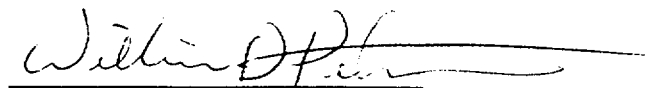
Judge G. Paul Bollwerk, III, Chairman
Judge Dr. Jerry R. Kline
Judge Dr. Peter S. Lam

CERTIFICATE OF SERVICE / DELIVERY

This is to certify that on this day a true and correct copy of the foregoing Reply, Motion for Findings was sent by electronic mail and delivered by deposit in the U.S. mail, first class, addressed as shown on the attached list.

Yesterday, on July 20, 2000, a copy of this Reply and Motion was delivered by E-mail for an advanced review to PFS counsel Paul Gaukler and Jay Silberg. Mr. Gaukler responded this morning by telephone. He said they have received and reviewed the document. They made no objection. They offered no comment.

Dated this 21th day of July, 2000.



William D. (Bill) Peterson

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SATURDAY, DEC. 27, 1997

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Leavitt digs in against N-waste project

Tooele officials call governor's approach flawed

By Lucinda Dillon

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He won't compromise. He won't budge.

Gov. Mike Leavitt is digging his heels deep into Utah's sandy soil against a group's effort to build

in Utah the nation's first repository for waste from nuclear power plants.

As the state's chief executive, the governor has claimed jurisdiction over one road so he'll be prepared, if necessary, to use it as a pawn. He has lobbied against the project in town meetings, state gatherings and with federal officials.

Now he says he will push state legislation that will "give the state a clear role" in whether or not the storage facility — co-sponsored by an out-of-state com-

pany called Private Fuel Storage and the Skull Valley Band of the Goshute Indians — will be built.

"We don't want it here," Leavitt said recently in his monthly televised news conference on KUED. "It is morally wrong."

Tooele County Commissioner Gary Griffith said Friday the commission hasn't cast its ballot either way but that the governor's approach leaves much to be desired.

First, commissioners are still meeting with Private Fuel Stor-

age officials to see how much money the project could bring to the county. "If it's no advantage to our county, we don't care whether it's safe or not — we don't want it."

Furthermore, commissioners "do not agree with the idea of opposing something" without a thorough look at the facts, he said. "... and (Leavitt) hasn't looked at this."

But in his press conference, the governor indicated the decision was not the Tooele County commissioners' to make. "I don't

think they ought to be jeopardizing the lives of 2 million Utahns," he said, for a project that could "financially benefit one county."

Leavitt told reporters he will do everything in his power to block the two entities from building the plant, which could handle 10.4 million spent nuclear fuel rods — approximately the number generated over a 15-year period. The proposed storage site is in Tooele County west of the Wasatch Front.

"This is the same area where a

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cruise missile flew around for two and a half hours" before it crashed, he noted. On Dec. 10, an errant cruise missile crashed into a cosmic-ray observatory at Dugway Proving Ground during a test flight.

The rods have a lethal shelf life of 10,000 years, Leavitt told reporters.

Although he is not yet prepared to talk about the legislation he hopes to get passed, Leavitt took the strongest stand yet during the recent press conference.

"I don't think the people of Tooele want this," Leavitt said, adding that the area 40 miles west of the Wasatch Front already contains 44 percent of the Earth's germ warfare arsenal. "How much of a target for mischief do we want to be?"

In a controversial move, Leavitt recently asked the Utah Transportation Commission to take control of 26 miles of two-lane highway that stretches from Dugway to I-80 through the Skull Valley Indian Reservation. Tooele County had previously controlled the road.

Transportation officials who approved Leavitt's request to take over the road said it wasn't clear at the time of the Dec. 5 decision what control, if any, the move gives the state in future negotiations over the nuclear waste proposal.

At that time, Tooele County Commissioner Teryl Hunsaker told the state's Transportation Commission he and his colleagues were still studying the concept of bringing in the plant. "We have no intention of doing anything that is detrimental to the citizens of Tooele or the state of Utah," he said.

But Leavitt said recently officials and citizens should get used to his behavior.

"I'm looking for tools here," Leavitt said. "Clearly, control of that road is one."

Legislation is another, although it is not clear what the focus will be. "We are not far enough along that we can lay out the legislative proposals," said Vicki Varela, Leavitt's deputy chief of staff.

Executives with Private Fuel Storage have launched a publicity war of their own, charging Leavitt and his staff with a campaign of misinformed terror. "Skepticism and doubt" fanned by Leavitt's administration will be put to rest in a series of public hearings, said project manager Scott Northard.

Last month, company officials met with newspaper editorial boards to make their views known.