

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of:

Private Fuel Storage, L.L.C.,  
(Independent Spent Fuel Storage  
Installation)

Docket No. 72-22

MOTION OF PETITIONERS CASTLE ROCK LAND & LIVESTOCK, L.C. AND  
SKULL VALLEY CO., LTD. FOR LEAVE TO REPLY TO THE NRC STAFF'S AND  
PRIVATE FUEL STORAGE, LLC'S RESPONSE TO PETITIONER'S CONTENTIONS.

The Nuclear Regulatory Commission Staff (the "Staff") and Private Fuel Storage, LLC ("PFS") filed responses to the Contentions of Castle Rock Land & Livestock, L.C. and Skull Valley Co., Ltd ("Castle Rock") on December 24, 1997. Castle Rock received a copy of the Staff's and PFS's responses on Monday, December 29, 1997. Castle Rock hereby moves for leave to reply to the Staff's and PFS's responses to Contentions.

Castle Rock's motion to submit a reply to the Staff's and PSF's responses is consistent with both Nuclear Regulatory Commission ("Commission") precedent and the purposes of the pre-hearing process. In Long Island Lighting Company (Shoreham Nuclear Power Station), LBP-81-18, 14 NRC 71, 1981 NRC LEXIS 97 (1981), the Commission explained:

Insofar as contentions are concerned, the intervenors must be heard in response because they cannot be required to have anticipated in the contentions themselves the possible arguments their opponents might raise as grounds for dismissing them. . . . Before any suggestion that a contention should not be entered can be acted upon favorably, the proponent of the contentions must be given some chance to be heard in response.

Id. at \*5 (quoting Houston Lighting and Power Company (Allens Creek Nuclear Generating Station, Unit 1), ALAB-565, 10 NRC 521 (1979)); see also In the Matter of Georgia Power Co.

(Vogle Electric Generating Plant, Units 1 and 2, 40 N.R.C. 37 (1994). Furthermore, as explained in the Commission release accompanying the rules governing petitions to intervene, the purpose of the pre-hearing process is to "crystalliz[e] disputes at an early stage in the proceeding, thereby improving the efficiency and quality of the hearing process." 54 Fed. Reg. 33168, 33169 (1989). In this case, PFS has filed a 672 page response to the contentions of the petitioners, and the staff has filed a 136 page response. Although the pre-hearing conference is scheduled for January 27 - 29, 1997, granting Castle Rock an opportunity to reply to the assertions and arguments of the Staff and PSF is appropriate in order to crystallize and narrow the numerous issues to be discussed at the pre-hearing conference and litigated throughout the proceeding. Moreover, the existence of a written reply will better facilitate complete understanding and recall of Castle Rock's arguments than a mere oral reply at the pre-hearing conference. Accordingly, Castle Rock requests leave to reply in a brief to be filed by January 22, 1998, or such other date as the License Board may designate in its order granting this motion.

DATED this 31<sup>st</sup> day of December, 1997.

Respectfully submitted,



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I hereby certify that I caused to be sent by E-Mail and first class postage prepaid, a copy of the foregoing MOTION FOR LEAVE TO REPLY to the following:

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Dated this 31<sup>st</sup> day of December, 1997.

  
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