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9 March, 1998

Dr. G. Paul Bollwerk, III, Chairman
Administrative Judge
Atomic Safety And Licensing Board
U.S. Nuclear Regulatory Commission
Washington DC 20555

Re: Skull Valley Goshutes' Petition for Secure Waste Storage

Dear Paul:

Please find enclosed the Skull Valley Goshutes' Memorandum in support of the Scientists' petition for Secure Nuclear Waste Storage. Should you have any questions regarding these documents, please contact our office at your convenience.

Sincerely,



Isaac Quintana
Legal Assistant

**United States Of America
Nuclear Regulatory Commission
Before the Atomic Safety and Licensing Board**

In the matter of)	
)	
Private Fuel Storage L.L.C.)	Docket No. 72-22
)	
(Private Fuel Storage Facility))	ASLBP No. 97-732-02-ISPSI

**SKULL VALLEY BAND OF GOSHUTES MEMORANDUM IN SUPPORT OF
PETITION OF THE SCIENTISTS FOR SECURE NUCLEAR WASTE STORAGE
AND THE ATLANTIC LEGAL FOUNDATION TO INTERVENE**

This is the Reply of the Skull Valley Band to the Supplemental Petition of Scientists for Secure Waste Storage, (SSWS), and the Atlantic Legal Foundation Petition to Intervene in the above-entitled proceedings. Because of the political developments which have occurred in Utah over the last month, (see infra), it is imperative that this proposed intervention be allowed.

FACTS IN SUPPORT OF INTERVENTION

The failure of politics to solve this important national problem of interim storage of spent nuclear fuel has created an economic opportunity for the Band and a burden for the utilities and end users of nuclear power. The Band submits that the political opposition to this independent nuclear storage facility is damaging national security interests in assurance of adequate energy supplies. As this Administrative body is well aware, without

either on site spent fuel storage expansion or an interim storage facility like that proposed by the applicant, many reactors will be forced to shut down within the next ten years. Even if we assume that the nation can make up the electrical generation lost by the reduction of nuclear power, the problem still exists with stranded costs of over \$135 billion dollars and decommissioning of the various shut down reactors. The question is not one of need for an interim facility, but of politics.

It is in the nature of politics and politicians to take positions on issues which are safe and non-controversial. Despite the fact that Sweden, France, Japan and other countries are able to build storage facilities for spent nuclear fuel, American politicians would rather gain voter points than make the hard decisions on national energy policy.

In their Supplemental Petition, SSWS point out the numerous scientific flaws in the contentions filed by opponents to this project. In speech after speech, the various opponents have referred to this storage facility as "dangerous", a "nuclear grave", a "nuclear dump" and otherwise pontificated that it is not in the Goshutes' and the others' best interests to go forward. See Exhibit A. In this last Utah legislative session some truly outrageous political posturing occurred.

-Legislation was passed which seized the Skull Valley Road from Tooele County and made it a state road. This road is the only access into the Reservation from I-80. This seizure of the Tooele County road occurred while other legislation was introduced to give roads to counties and cities to lessen the State's burden for maintenance. The seizure also occurred at a time when Utah's own Department of Transportation is suffering an admitted \$250 million dollar shortfall for highway reconstruction.

-A Resolution condemning this interim storage project was passed by the legislature. Various representatives refused to take phone calls and be briefed on the project. The very limited debate was hysterical and emotional.

-Legislation was passed setting a bond of \$2 billion dollars with fees of \$5 million on this facility, *despite the fact that this facility is on a Reservation*. News story after news story interviewed the suddenly famous Utah politicians who got on the band wagon of fighting the Goshute Nuclear Waste War. One state Senator made an analogy of the Goshutes with Iraq and no concern for their neighbors! This proposed Skull Valley interim storage facility was the single most publicized political issue of this legislative session. This issue attracted more local media attention than any other.

FACTUAL AND LEGAL ARGUMENTS IN SUPPORT OF INTERVENTION

Political media posturing is old hat. It was politically expedient for Senator Joe McCarthy to accuse various people of being "communists" and thereby ruin their lives. At the time he made these allegations, most politicians simply got on the band wagon rather than carefully examine his ridiculous claims and challenge them. Most politicians took the easy path of rumor and went along with the Red Scare. Few politicians were actually interested in the facts and in the truth. As long as they were popular and re-elected, the rights of others mattered not. Many people would have liked to speak out but feared retaliation. In the short run this cheap war on our body politic succeeded.

The Red Scare cost this country hundreds of millions of dollars in unnecessary defense expenditures and ruined the lives of thousands of individuals. Finally, truth won the day and the hysteria ended.

In Nazi Germany, it was far easier to get on the bandwagon of Jew hatred and Aryan superiority than to stand up and question authority. The Nazi politicians used political expediency to ruin the lives of millions of people. Opposition to the gospel truth of Hitler was at risk of one's life. Only the bravest Germans and others opposed the political hysteria of the day. The fear of retaliation was real. Ultimately, truth won the day and at horrendous cost to humanity, the Nazis were defeated.

During the Spanish Inquisition, the mere accusation of being a heretic was enough to cause the loss of property and liberty. Non-believers, at the pain of burning at the stake, soon became convinced about the "truth" of religious matters. Most people converted and otherwise conformed to the politics of the day. Very, very few dared to oppose the Inquisition and challenge political authority. Scientific truth and objective criticism was not a subject of conversation for fear of actual retaliation.

In his day, Copernicus could not win against the politics of the than all powerful Catholic Church. The thought that Earth was not the center of the universe was absolutely counter to the politics and religion of the day. One could lose one's position in the Church and loss of life and liberty was real. Ultimately, truth won and a new view of the universe was created.

During the Salem witch trials, it was easier to accuse someone of being involved with the occult than to allow open public scientific discussion. The mere accusation was enough to result in a trial which lead to death of the accused. Truth mattered not.

It is easy for Utah politicians to shout about the "danger" of the Goshute Nuclear Waste War. There are votes in opposing this project. It is even easier to misrepresent the

transportation issues and have the public treasuries available to "fight the Goshutes". Politics can ruin this Goshute/utility economic project because it is very expedient. But political expediency is not always morally right. The Lessor and PFS are going to have to win with science and truth. The Goshutes do not have Nobel prize nuclear physicists as members who can testify before the Nuclear Regulatory Commission that this project is "safe". Therefore, the need for this intervention.

If there is a health or environmental risk which has been missed by the Band over the last eight years of studying this project, these independent scientists might be able to find it and advise on precautions regarding the same. Over 200 brave Utah citizens support SSWS' intervention to bring truth to these proceedings. See Exhibit B. Many of these citizens live in Tooele County, the site of the proposed facility.

This Court has broad equitable discretion in allowing this petition to intervene. Complex issues of nuclear science are involved as is public policy. SSWS' Petition to Intervene was filed **before** the initial Pre-Hearing Conference and a representative, Dr. Richard Wilson was in attendance. The applicant correctly sets forth the standard and the law. See generally, Pebble Springs, CLI-76-27, 4 NRC at 615-17.

CONCLUSION

The First Amendment creates a free market place of ideas where open, objective public discussion of the important issues results in better decisions. This is exactly why the Atlantic Legal Foundation and these experts need to be part of this important national discussion. For the reasons set forth supra, the Skull Valley Band of Goshutes and the Concerned Citizens of the State of Utah respectfully pray the Atomic Safety and Licensing

Board and the Nuclear Regulatory Commission to allow the intervention of the Scientists for Secure Waste Storage and the Atlantic Legal Foundation in this licensing proceeding of Private Fuel Storage, LLC for their application to build a storage facility for spent nuclear fuel on the Skull Valley Band of Goshute Reservation.

DATED this 9th day of March, 1998.


DANNY QUINTANA & ASSOCIATES, PC.

Danny Quintana
General Counsel for the
Skull Valley Band of Goshutes

CERTIFICATE OF SERVICE

I hereby certify that copies of the above Response were served upon the persons indicated below in the manner stated on the date stated:

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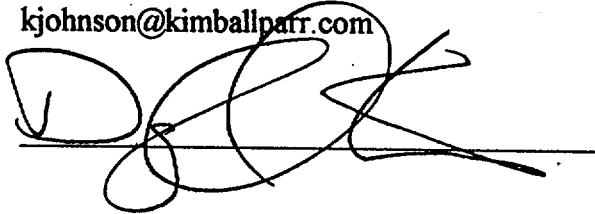
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Dated: 9th day of March, 1998.

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A large, stylized handwritten signature in black ink, likely belonging to Clayton J. Parr, is written over the printed name and contact information.