

February 13, 1998

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-ISFSI

**APPLICANT'S ANSWER TO AMENDED PETITION
OF SCIENTISTS FOR SECURE WASTE STORAGE**

At the Prehearing Conference and in its February 2, 1998 Memorandum and Order (Memorializing Initial Prehearing Conference Directives), the Atomic Safety and Licensing Board ("Board") ordered the amended petition to intervene by Richard Wilson and other individuals to be filed February 2, 1998 and responses thereto to be filed by February 13, 1998. On February 2, 1998, Richard Wilson filed an amended petition to intervene on behalf of Scientists for Secure Waste Storage. ("Amended Petition") In accordance with the Board's Order, Applicant Private Fuel Storage L.L.C. ("Applicant" or "PFS") submits this Answer to the Amended Petition.

The Applicant does not oppose intervention in this proceeding by the Scientists for Secure Waste Storage. The Applicant believes that the Scientists for Secure Waste Storage have set forth sufficient information in the petition to be granted discretionary

intervention as articulated by the Commission in Portland General Electric Company (Pebble Springs Nuclear Plant, Units 1 and 2), CLI-76-27, 4 NRC 610, 614-17 (1976). In that case, the Commission set forth six factors by which to judge whether a petitioner should be granted discretionary intervention, as follows:

(a) Weighing in favor of allowing intervention --

- (1) The extent to which the petitioner's participation may reasonably be expected to assist in developing a sound record.
- (2) The nature and extent of the petitioner's property, financial, or other interest in the proceeding.
- (3) The possible effect of any order which may be entered in the proceeding on the petitioner's interest.

(b) Weighing against allowing intervention --

- (4) The availability of other means whereby petitioner's interest will be protected.
- (5) The extent to which the petitioner's interest will be represented by existing parties.
- (6) The extent to which petitioner's participation will inappropriately broaden or delay the proceeding.

Id. at 616. Although identifying six factors, the Commission made clear in Pebble Springs that "the primary consideration concerning discretionary intervention is the first factor -- assistance in developing a sound record." General Public Utilities Nuclear Corporation (Oyster Creek Nuclear Generating Station), LBP-96-23, 44 NRC 143, 160 (1996). See

also Nuclear Engineering Company, Inc. (Sheffield, Illinois, Low-Level Radioactive Waste Disposal Site), ALAB-473, 7 NRC 737, 743-44 (1978) ("the most important factor to be considered [in determining whether to grant discretionary intervention] is the extent of the contribution which might be expected of the petitioner"); Tennessee Valley Authority (Watts Bar Nuclear Plant, Units 1 and 2), ALAB-413, 5 NRC 1418, 1422 (1977) ("foremost among [the Pebble Springs factors] is whether the petitioner's participation would likely produce a valuable contribution . . . to our decision-making process") (internal quotations and citations omitted).

Here, the members of the Scientists for Secure Waste Storage are 20 highly distinguished scientists and scholars, including four Nobel Laureates in Physics (as well as a Nobel Laureate in Economics and a Nobel Laureate in Chemistry), three former Chairmen of the Commission, and numerous Professors of Physics, Nuclear Engineering and other academic disciplines. Thus, the members of the Scientists for Secure Waste Storage could certainly provide a valuable contribution to the decision-making process.

As stated in the Amended Petition:

Most of the petitioners have worked much of their lives in research on the science and technology of nuclear energy and in planning and regulating nuclear energy (as set forth succinctly in the qualifications besides the names, with exceptions noted) and the collective knowledge and experience of the petitioners can be of help to the board and therefore to the public at large.

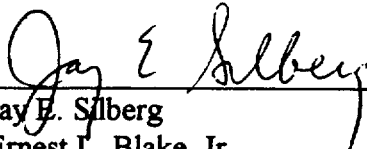
Amended Petition at 2.

The Appeal Board in Sheffield recognized that a scientific and technical group, such as Scientists for Secure Waste Storage, could make a valuable contribution to the decision-making process. In that case, the Chicago Section of the American Nuclear Society had petitioned for leave to intervene as of right with respect to the renewal and amendment of the license for the Sheffield facility. It identified itself "simply as an organization of 'professionals interested in the optimum development of nuclear science and technology for the benefit of mankind,'" comprised of members "'engaged in academic, commercial, and governmental affairs'" who "claimed to 'have a particular interest and expertise in matters which may be involved in consideration of the [Sheffield] facility.'" Sheffield, supra, ALAB-473, 7 NRC at 741. The Appeal Board rejected the Chicago Section's petition for intervention as of right, but recognized that certain of its members could be presumed to have "considerable training and experience in various areas of nuclear technology" and thereby would be "equipped to supply enlightenment on some, if not all, of the matters confronting the Board." Id. at 744. Accordingly, the Appeal Board directed the licensing board to allow the Chicago Section an opportunity to petition for discretionary intervention, which the Section did, and which licensing board granted. See Nuclear Engineering Company, Inc. (Sheffield, Illinois, Low-Level Radioactive Waste Disposal Site), ALAB-494, 8 NRC 299, 300 n.1 (1978).¹

¹ See also Long Island Lighting Company (Shoreham Nuclear Power Station), LBP-73-13, 6 AEC 271, 274 (1973) (allowing intervention of the Suffolk Scientists for Cleaner Power and Safer Environment who "indicated in its petition to intervene that it was an incorporated organization with members specializing

The Applicant believes that it would be similarly appropriate for the Board to grant Scientists for Secure Waste Storage discretionary intervention in this proceeding.²

Respectfully submitted,


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Dated: February 13, 1998

in various scientific disciplines pertinent to nuclear technology and was interested in the impact of electric generating facilities on Long Island").

² Because Scientists for Secure Waste Storage generally support the license application the Private Fuel Storage Facility, there is no need for them to set forth specific contentions with respect to the application. See Sheffield, supra, ALAB-473, 7 NRC at 743 n.5. Upon the Board's ruling on the admissibility of contentions, it would be appropriate, however, for the Board to require them to identify those contentions on which they intend to be involved and their position with respect to those contentions. Id.; see also id. at 745.

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CERTIFICATE OF SERVICE

I hereby certify that copies of the "Applicant's Answer to Amended Petition of Scientists for Secure Waste Storage" dated February 13, 1998, were served on the persons listed below (unless otherwise noted) by e-mail with conforming copies by U.S. mail, first class, postage prepaid, this 13th day of February 1998.

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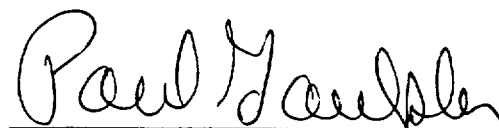
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(Original and two copies)

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* By U.S. mail only

A handwritten signature in cursive script, reading "Paul Gaukler". The signature is written in black ink and is positioned above a horizontal line.

Paul A. Gaukler

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