

November 21, 2005

W. Patrick Ragsdale, Director
Bureau of Indian Affairs
1849 C Street, NW
Washington, DC 20240

Re: Review of the Lease between the Skull Valley Goshute Tribe of Utah and Private Fuel Storage, LLC

Dear Mr. Ragsdale:

As a member of the Skull Valley Goshute Tribe, I am writing along with national environmental and public interest groups regarding your agency's impending review of the lease between the utility consortium Private Fuel Storage (PFS) and the Skull Valley Goshute Tribe of Utah.

On September 9, 2005, in a split decision, the Nuclear Regulatory Commission (NRC) granted permission for PFS to build a "temporary" waste dump for 40,000 metric tons of highly radioactive waste on the Skull Valley Goshute Reservation in Utah. The NRC Commissioners' decision was controversial, because in addition to the hazardous nature of the waste, the U.S. Air Force has live testing and training grounds located adjacent to the site. Fighter jets, which routinely use this area, would pose a serious risk to the integrity of the waste casks if they were to crash into the site. In fact, prior to the Commissioners' decision, the dissenting vote in the 3-member licensing board was from the person most familiar with such scenarios and their radiological impact, Dr. Peter Lam – the only engineer on the panel.

Before this project can go forward, your agency must examine the validity of the lease agreement between PFS and the Goshute Tribe, and the lease's consistency with federal trust responsibility. It is important that this review be thorough and documented. By the nature of federal trust responsibility, your agency has a fiduciary duty to Tribes to protect their lands and resources, and must exercise due care in the administration of Indian property. BIA is required under its own regulations to have certain review processes for all lease approvals, and to demonstrate compliance with federal trust responsibility.

In its preliminary review of this lease, which occurred in 1997, BIA did not meet these requirements. In fact, BIA has no documentation of the process by which the lease was preliminarily approved, which was just a mere three days after the lease was signed. Requests from Tribal members and the State of Utah for information concerning this review have not been answered, and in response to a Freedom of Information Act (FOIA) request submitted by Public Citizen and Nuclear Information and Research Service (NIRS) in May 2005, BIA stated that, "The then Superintendent of the Uintah and Ouray Agency retired from the government service. No one except that person can state with certainty what documents were considered in review of the lease before its approval."

As such an undocumented and unsubstantiated review process is inadequate and potentially illegal, the final review of the lease must not proceed in this manner. We urge your agency to review this lease thoroughly and transparently, with a focus on determining the consistency of the lease with federal trust responsibility. We would also like to know the decision-making process, including the

section of 25 C.F.R. Part 162, that you intend to use for this evaluation. Please contact Melissa Kemp with any questions or responses to this letter at (202) 454-5176 or mkemp@citizen.org.

Sincerely,

Margene Bullcreek
Ohngo Gaudedah Devia

Susan Gordon
Executive Director
Alliance for Nuclear Accountability

Peggy Maze Johnson
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Cc: Secretary Gale Norton