

EXHIBIT 4

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA

Ex Rel: Sammy Blackbear Sr., Colleen Blackbear,
Abby Bullcreek, David Bullcreek, Lisa Bullcreek,
Margene Bullcreek, Tyrone Bullcreek, Vern Bear,
Edwin Clover, Kenneth W. Eagle, Leslie Dawn
Eagle, Edith Knight, Eldon Knight, Lena Knight,
Adrian Moon, Delford Moon, Edgar Moon,
Marlinda Moon, Linda Clover Rivera, Diane Eagle
Tom, Stephanie E. Vigil, Denise Wash, Lester
Wash, Marvin R. Wash, Herman Bahe, and
Confederated Tribes of the Goshute Reservation;
Sammy Blackbear Sr. and Margene Bullcreek,

Plaintiffs.

v.

BRUCE BABBITT, Secretary of the United States
Department of the Interior; the UNITED STATES
DEPARTMENT OF THE INTERIOR; the BUREAU
OF INDIAN AFFAIRS; WAYNE NORDWALL,
Phoenix Area Director, Bureau of Indian Affairs;
DAVID L. ALLISON, Superintendent of Uintah and
Ouray Agency, Bureau of Indian Affairs; PRIVATE
FUEL STORAGE L.L.C., a Wisconsin based
Delaware Limited Liability Company licensed to do
business in the State of Utah, and DOES 1-100;

Defendants.

COMPLAINT

2 : 99CV 0156K

Case No:

Judge: DALE KIMBALL

prior to the Secretary approval of any replacement lease, to ensure proper collection and analysis of relevant data and to verify the effective opportunity to participate by potentially affected peoples.

CLAIM FOR RELIEF 7: Copy of Full Lease Not Provided to Tribal Council Members
(5 U.S.C. § 552: Secretary Violated Freedom of Information Act (FOIA) Requirements)

Plaintiffs Sammy Blackbear, Sr. and Margene Bullcreek allege as to Defendants Bruce Babbitt, the United States Department of The Interior; the Bureau of Indian Affairs; Wayne Nordwall and David L. Allison:

248. The allegations contained in paragraphs 1 through 247 are hereby realleged and incorporated.

249. The State of Utah filed Freedom of Information Act requests ("Utah FOIA" herein), dated April 28, 1997, and June 16, 1997, with the BIA, requesting a copy of Purported Lease.

250. Plaintiffs, each members of the Tribal General Council, the primary governing body of the tribe, on May 28, 1998 submitted a similar request to Defendant Superintendent of the Uintah and Ouray Agency of the Bureau of Indian Affairs, pursuant to the Freedom of Information Act (hereinafter "FOIA"), 5 U.S.C. § 552 (a) 3, and implementing regulations, seeking, among other things, a copy of the Purported Lease "for the purpose of allowing them, and each of them, to fulfill their obligations as tribal council members." ("Bear FOIA" herein and "Exhibit D" hereto).

251. The Utah FOIA and Bear FOIA sought (using identical wording):

Copies of all leases presently in effect covering all or any part of the land. (June 16, 1997 Utah FOIA request, ¶ 4c; Bear FOIA request, ¶ 4c.)

252. In response to said FOIA requests, the BIA sent both the State and the Plaintiff Tribal General Council Members an identical redacted copy of the Purported Lease, claiming Exemption 4 of the FOIA as the justification for the redaction.

253. Exemption 4 exempts : from disclosure "trade secrets and commercial or financial

information obtained from a person and privileged or confidential." (5 U.S.C. § 552(b)(4).)

254. The copy of the Purported Lease supplied in response to the FOIA requests contained substantial redactions and is unsuitable for use by members of the Tribal General Council in meeting their duties and obligations to the Tribe.

255. The redactions included termination provisions, payments to be made from the Lessee to the Lessor, rental adjustments to be made during the term of the Lease, the interest payable on late lease payments, provisions dealing with taxes and regulations, and provisions dealing with "frustration of purpose."

256. The material redacted goes to the heart of the Purported Lease and is crucial for the members of the Tribal General Council in order to understand the Purported Lease, and its affect on the tribe and tribal members, in order for the members of the Tribal General Council to discharge their tribal responsibilities.

257. The FOIA exemption relied upon by the Superintendent does not justify withholding from Tribal General Council Members the crucial provisions of the Purported Lease which were withheld from them.

258. It was error for the Superintendent to have refused to produce the portions of the Purported Lease that were redacted.

259. An appeal was filed, by the State of Utah, and the delay in responding counts as a denial thereof and an exhaustion of available administrative remedies.

260. Because of identical requests and identical responses, any further appeal to administrative remedies would be futile.

261. The Purported Lease is clearly a "very important" or "significant" lease of trust lands requiring careful involvement attention to detail by the Secretary and Department.

262. The Purported Lease on its face acknowledges the responsibility and duty of Tribal

General Council Members to conduct all important tribal business, including the authorization of any entry into a lease of Tribal trust land.

263. The redacted copy of the Purported Lease states:

WHEREAS, the Band conducts its tribal business through a General Council comprised of eligible membership of the Band and an Executive Committee, a three-member governing body elected by the General Council: (Third full paragraph on page 1).

And:

WHEREAS, the Band has authorized entry into this Lease through General Council Resolution . . . (Top of page 2).

264. Despite his fiduciary duties, and notwithstanding his clear legal requirement to do so for so important a lease, the Secretary failed to provide a complete copy of Purported Lease when requested to do so by the Plaintiff Members of the Tribal General Council to assist them in meeting their duties and obligations.

265. The Court is requested to issue an Order directing the Superintendent to produce all redacted portions of the Purported Lease pursuant to Plaintiffs' Bear FOIA request.

266. The Court is additionally requested to Order the BIA to review its involvement with respect to the Purported Lease and verify or ensure proper tribal approval by the Tribal General Council before final Secretary Approval of Purported Lease.

267. The Court is further requested to retain jurisdiction to supervise the Secretary and BIA in their involvement in the renegotiation, re-review, tribal approval, Secretary approval, and implementation of the purported lease or lease modifications, should the supervised Secretary and BIA review determine the need for such.

REQUESTED RELIEF

WHEREFORE, as to Claims For Relief 1 through 6 Plaintiff United States of America prays for relief as follows: