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June 28, 2001

G. Paul Bollwerk III, Esq., Chairman Administrative Judge
Dr. Peter S. Lam, Administrative Judge
Dr. Jerry R. Kline, Administrative Judge
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Re: OGD Response to PFS Motion for Summary Disposition of OGD Contention O
Docket No. 72-22; ASLBP No. 97-732-02-ISFSI
Private Fuel Storage; (Independent Spent Fuel Storage Installation)

Dear Judges:

Enclosed please find:

Ohngo Gaudadeh Devia's (OGD) Response to Private Fuel Storage's (PFS) Motion for Summary Disposition of OGD Contention "O"

Statement of Material Facts at Issue in Support of Ohngo Gaudadeh Devia's (OGD) Response to Private Fuel Storage's (PFS) Motion for Summary Disposition of OGD Contention O

Declaration of Sammy Blackbear dated June 28, 2001, including the Exhibits thereto which are not being served other than on the judges (and only by mail), subject to claims of confidentiality, safety and sovereignty more fully set forth herein below.

Declaration of Fred Payne dated June 28, 2001

Certificate of Service for Ohngo Gaudadeh Devia's (OGD) Response to Private Fuel Storage's (PFS) Motion for Summary Disposition, Ohngo Gaudadeh Devia's (OGD) Statement of Facts at Issue, in Support of OGD's Response to Private Fuel Storage's (PFS) Motion for Summary Disposition and all supporting documents (with the exception of the Exhibits to the declaration of Sammy Blackbear which are not being served other than on the judges (and only by mail), subject to claims of confidentiality, safety and

sovereignty more fully set forth herein below.

Certificate of Service for this letter.

Sammy Blackbear tenders his Declaration for the express purpose of supporting an in process federal agency proceeding to the end that it will consider and investigate the matters reported therein. His Declaration is submitted under an expectation of confidentiality, especially with respect to the Exhibits. The Exhibits are not being served other than on the judges (and only by mail), subject to claims of confidentiality, safety and sovereignty.

All of the members of the Skull Valley Band of Goshute Indians' Tribal General Council (the Tribe's sole governing body) we have discussed the confidentiality of Tribal records and/or documents with have told us that the Tribe holds its records as private, confidential documents for the benefit of the Tribe and its members. Tribal records are normally not available for inspection or use by the public at large.

Mr. Blackbear has provided his Exhibits to this Board (under an expectation of confidentiality) to allow it to adjudicate the conflicting claims of Tribal leadership and authority. While Leon Bear and PFS have used Tribal documents and records of a sovereign for their own private purposes and personal gain, without the consent or authorization of that sovereign, Sammy Blackbear offers his Exhibits in defense of that sovereign and for its benefit.

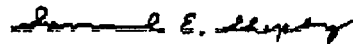
During his May 3, 2001 deposition, Leon Bear testified to procedures he alleges must be followed before Tribal documents and records may be released, even in these proceedings. Mr. Bear testified he was without authority to release any such records and documents, that only the Tribal General Council as a whole holds such authority. While OGD and numerous Tribal General Council Members fail to recognize Mr. Bear as a Tribal leader and do not agree with his testimony and procedures, it appears that as a minimum, before any Tribal documents and/or records be released to or for him or those acting in concert with him (including PFS), the procedures Mr. Bear asserts should be followed.

In addition, some members of the Skull Valley Tribal General Council fear for their personal, family and economic safety if some of the Tribal documents included as Exhibits to Mr. Blackbear's declaration fall into the wrong hands (including Leon Bear, PFS and those working with them). Mr. Blackbear and some of his family have been shot at, they believe as a direct result of their opposition to Leon Bear and the PFS Project. Numerous Tribal members have suffered and continue to suffer economic hardship and deprivation at Mr. Bear's hands, and fear that conditions will worsen if Mr. Bear knows of their continued opposition to him and the PFS Project. In reference to Leon Bear, counsel for PFS has informed our office that they are unable to withhold information from their "partner" so we do not believe PFS should have access to these documents without stringent safeguards to protect the Goshute community.

Therefore, it is hereby formally requested that Mr. Blackbear's Declaration be accepted subject to the expectation of confidentiality under which it is tendered, and that the Exhibits thereto be accepted as confidential documents and afforded the highest level of confidentiality and protection permitted under the law. Should other parties to these proceedings argue they must be allowed to view these Exhibits, OGD and Mr. Blackbear are prepared to assist the Board in developing appropriate safeguards.

Respectfully submitted,

Steadman & Shepley, LC



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**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

June 28, 2001

Before the Atomic Safety and Licensing Board

Private Fuel Storage, a Limited Liability Company; (Independent Spent Fuel Storage Installation).	Docket No. 72-22 ASLBP No. 97-732-02-ISFSI June 28, 2001
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**OHNGO GAUDADEH DEVIA'S (OGD) RESPONSE TO PRIVATE FUEL
STORAGE'S (PFS) MOTION FOR SUMMARY DISPOSITION
OF OGD CONTENTION "O"**

1. Response to PFS' Motion for Summary Disposition: OGD hereby provides a response to PFS' May 25, 2001 Motion for Summary Disposition of OGD Contention "O."

2. OGD Contention "O": PFS, in its May 25, 2001 Motion for Summary Disposition of OGD Contention "O," relies on a statement of scope for Contention "O" with which OGD fundamentally disagrees.

a. Fundamental Disagreements About Scope: Although PFS cannot prevail in this Summary Disposition Motion, even accepting PFS' statement of the Issue (see below), OGD disagrees fundamentally with the purported limitations on OGD Contention "O," as stated by PFS.

(1) The Commission Did Not Limit OGD Contention "O": The Commission, in its July 30, 1998 Memorandum and Order (CLI-98-13), did not limit OGD Contention "O" but left any limitations up to the Board, with the direction that the Board conduct its Environmental

Justice inquiry in accordance with the guidance given in the Commission's *Claiborne* decision (at 11 and 12).

(2) **The Board May Disregard its past Position on Limitations:** The Commission, in its *Claiborne* decision (see *Louisiana Energy Services, L.P.* (Claiborne Enrichment Center), CLI-98-3, 47 NRC 77 (1998)), determined that the Board did not have to restrict itself to limitations it had previously imposed with respect to environmental justice contentions (beginning of last paragraph under "Impact On Property Values").

(3) **The NRC has Special Obligations and Duties with Respect to Indians:** The federal government, including all of its agencies, has special obligations and duties with respect to Indians and Indian tribes. In *Cherokee Nation v. Georgia*, 30 U.S. (5 pet.) 1, 16 (1831, Marshall, C.J.), the Court ruled that Indian tribes were to be "denominated domestic dependent nations . . . in a state of pupilage" and that "their relation to the United States resembles that of a ward to his guardian."

(a) The power and responsibility to fulfill these obligations and duties with respect to the Indians is vested in all of the federal government and involves the Executive branch, Congress, and the Court[s], which make up the "General Government" or federal government:

"[While] not expressly granted in so many words by the Constitution, except with respect to regulating commerce with the Indian tribes, its existence cannot be doubted" and involves "the Executive and . . . Congress, and . . . this court . . . [constituting] the General Government." (*Board of Comm'rs v. Seber*, 318 U.S. 705, 715 (1943)). This "obligation and power" requires "the United States to protect and preserve [the] restricted allotted lands for the Indians . . ." (at 717). This especially includes the obligation and power to "regulate and protect the Indians and their property against interference . . . [and] the selfishness of others and their own improvidence." (at 715). The federal government must use "appropriate means" while it "protects its guardianship and prevents the impairment of [Indian land] in discharge of the obligations of that guardianship. . . . it is immaterial that [the Indians] are citizens, because it is settled that the grant of citizenship to the Indians is not inconsistent with their status as wards . . ." (at 718, references deleted).

(b) The federal government and each agency has an “overriding duty” to see that Indians are dealt with fairly, which duty requires that agencies give special regard to the procedural rights of Indians as part of agency processes (*Morton v. Ruiz*, 415 U.S. 199, 236 (1973)), even to such an extent that agency processes with respect to “undertakings with the Indians are to be liberally construed to the benefit of the Indians” (*Pyramid Lake Paiute Tribe v. Morton*, 354 F. Supp. 252, 256 (D.D.C. 1972)). Issues in doubt “are to be resolved in favor of the weak and defenseless people who are the wards of the nation, dependent upon its protection and good faith . . . and should never be construed to their prejudice.” (*Squire v. Capoeman*, 351 U.S. 1, 6-7 (1955)).

(c) Courts have uniformly enforced a strict standard of care and accountability against the federal government and all federal agencies with respect to their special obligations to Indian tribes and, depending on the facts of the case, with respect to individual Indians. (*United States v. Creek Nation*, 295 U.S. 103, 109-110 (1935); *Seminole Nation v. U.S.*, 316 U.S. 286, 297 (1942); *Brown v. U.S.*, 86 F.3d 1554 (Fed. Cir. 1996)).

(d) The standard is the same whether the older “guardianship” or newer “trust” or “fiduciary” terms are used:

“ . . . in judging the conduct of the Government, ‘the most exacting fiduciary standards’ must be applied . . . it [is] unnecessary to determine whether the relationship between the tribe and the United States [is] a trusteeship or guardianship in the technical sense.” (*Navajo Tribe of Indians v. United States*, 364 F.2d 320, 322 (Ct. Cl. 1966), The use of “the most exacting fiduciary standards” was established by the Supreme Court in *Seminole Nation*, at 297).

(4) The NRC’s Special Obligations, or “Trust Responsibility” Owed to Indians,
Provides a Litigable Basis: Even when agency action is committed to agency discretion by law, the agency has undifferentiated statutory responsibility, and its agency actions are normally

unreviewable, if the actions involve Indians and trust land, “those actions nevertheless are limited by the fiduciary responsibilities vested in the United States as trustee of Indian lands . . . [and are] action subject to judicial review.” (*Kenai Oil & Gas, Inc. v. Dept. of Int. of U.S.*, 671 F.2d 383, 386 (10th Cir. 1982); see also *Pyramid Lake*, at 257). Contentions rooted in a “trust responsibility” owed to Indians possess a litigable basis.

(5) Because of the NRC’s Special Obligations, It must Consider Intentional Racial Discrimination Aspects of OGD’s Allegations: The NRC has an “overriding duty” to protect Indian tribes from being targeted as part of a racially motivated plan of discrimination. OGD alleges and properly pleads that the Skull Valley Band of Goshute Indians has been targeted as part of a racially motivated plan of discrimination, and is prepared to meet the Supreme Court and Nuclear Regulatory Commission’s standards for adjudicating such claims.

(a) The Commission has provided Standards for Intentional Racial Discrimination Adjudication: The Commission in *Claiborne* explained the “carefully-woven system of legal remedies, and modes of proof and rebuttal” including “allocation of burdens or standards of proof” which the Board must incorporate into its adjudications in order to consider the racial discrimination aspects of environmental justice. (*Claiborne*, first paragraph after reference to note 22, and note 22).

(i) Board to Adjudicate Intentional Racial Discrimination Claims only under Exceptional Circumstances: The Commission stated in *Claiborne* that the Board would normally not be required to adjudicate intentional or deliberate racial discrimination claims and, in any case, they were not appropriate to the circumstances of *Claiborne* because:

1) CANT (the intervener in *Claiborne*) did not properly plead intentional or deliberate discrimination, relying solely on NEPA and disparate impact issues (*Claiborne*,

paragraph referencing note 22 and note 22). The Commission had found that CANT had instead pled that siting the facility at the proposed location resulted in discriminatory effects and that these discriminatory effects claims, according to the Commission, do “not hinge on claims of a deliberate and conscious intent to discriminate against African-Americans in the site-selection process” and that these discriminatory effects claims could be considered under NEPA “in the evaluation of the environmental and socioeconomic impacts of the siting decision in this case” (*Claiborne*, 5. a. second paragraph).

2) Intentional or deliberate discrimination claims must be separately pled because they are beyond the requirements of NEPA: “NEPA is not a civil rights law calling for full scale racial discrimination litigation in NRC licensing proceedings.” (*Claiborne*, paragraph after paragraph referencing note 23).

3) Allegations of intentional or deliberate discrimination, even if properly pled, must either be related to issues within the compass of the NRC’s enabling statutes, associated regulations, and assigned responsibilities, or allege that the NRC itself is involved in the discriminatory process, and neither of these conditions were found to be met under circumstances as were the case in *Claiborne*. (*Claiborne*, notes 19, 20 & 23).

(ii) NRC Activities Involving Licensing Facilities On Indian Reservations

Provides Exceptional Circumstances: Because of the NRC’s special obligations to protect Indians, the intentional racial discrimination adjudication standards provided by the Commission are appropriate during licensing activities involving placement of nuclear facilities on Indian trust land, especially if properly pled. Protecting Indians is part of the NRC’s assigned responsibilities, and is part of the processes involving the NRC, in licensing a nuclear facility on Indian trust land. Unlike the proceedings addressed in *Claiborne*, the current proceedings contemplate the

construction and operation of a high level nuclear waste facility on an Indian reservation. As a result, the Board must consider more than just the normally considered requirements of NEPA in adjudicating Environmental Justice issues¹ and may even need to consider potential NRC liability.²

(b) OGD Meets the Standards for Deliberate Racial Discrimination

Adjudication: OGD has properly pled allegations of intentional and deliberate racial discrimination against Indians, which deliberate discrimination affects processes involving the NRC, and which discrimination is related to issues within the compass of NRC's assigned responsibilities, because of the NRC's special obligations to protect Indians, and because the

¹ The Commission in *Claiborne* pointed out that the relevant Executive Order on Environmental Justice, E.O. 12898, 3 C.F.R. 859 (1995), "by its own terms established no new rights or remedies [but] its purpose was merely to 'underscore certain provisions of existing law. . .'" (at 5.a.1. first paragraph). The Commission went on to find that, under the circumstances of *Claiborne*, the only "pertinent" existing law was NEPA (at 5.a.1., first and beginning of, second paragraphs), given the absence of "intentional racism" (which was not properly pled in *Claiborne*, at 5.a.3.), which could evoke civil rights laws and associated requirements (at note 22), or involvement with Indian tribes (briefly referred to in passing at 5.a.1. second paragraph) which could evoke requirements and laws associated with the government's special obligations to protect Indian tribes (not addressed in *Claiborne* because dealings with Indian tribes were not at issue).

Even though not addressed in *Claiborne*, the Executive Order underscores the government's special obligations in dealing with Indians, including special obligations relevant to considerations associated with facilities being sited on Indian land. In particular each federal agency must share information with and cooperate with tribal governments, and federal agencies are separately ordered to apply the principles of environmental justice with respect to projects or programs affecting Native Americans. (See Executive Order 12898, of February 11, 1994 (59 F.R. 7629), titled: "*Federal Actions to Address Environmental Justice in Minority Populations and Low-income Populations*" Sections: 1-101; 1-102; 2-2; 3-301(c); 3-302(b), (c), (d); 5-5; 6-606).

² The Commission in *Claiborne* relies on *Gannett Satellite Information Network v. Berger*, 894 F.2d 61 (3rd Cir. 1990) for the position that the NRC has no liability, or even responsibility, for any racially discriminatory actions of Applicant under the circumstances of *Claiborne* (at note 23). In *Gannett*, the Third Circuit found that when a government agency is involved with a simple lease with a lessee, where the lessee does not preform any "public function", under the circumstances where the government is not under an obligation to control the actions of the lessee, or interfere with its decision making, or get entangled with the lessee's processes such that its actions may be attributed to the government, or form a "symbiotic" relationship such that the public might reasonably conclude that the government has lent its support to the lessee's actions, then government responsibility might not be triggered with respect to actions taken by the licensee or tenant (at 67, citing *Moose Lodge No. 107 v. Irvis*, 407 U.S. 163 (1972); *Moose Lodge* holds that a general rule is, as a matter of law, not possible, and each case must be taken separately, see *Burton v. Wilmington Parking Auth.*, 365 U.S. 715 (1961) and *Flagg Brothers, Inc. v. Brooks*, 436 U.S. 149 (1978)). However, leasing or licensing activities with respect to Indian land evokes full governmental responsibility and liability (see *Kenai Oil*, at 386; *Brown v. U.S.*, at 1562), in part precisely because each of the conditions for triggering responsibility and even liability, are met (but mostly because responsibility, at least, does not need a trigger, because of the government's special obligations to Indians).

licensing activities alienate Indian trust land.

(i) OGD is prepared to show there is sufficient indicia of intentional and deliberate invidious racial discrimination in the documents and records currently associated with the present licensing processes to support adjudication of intentional racial discrimination issues.

(ii) The evidence, as part of this adjudication, will establish a *prima facie* case that PFS, in violation of applicable civil rights statutes (including without limitation 42 U.S.C. §§ 1981, 1982, 1983, 1985, 1986 and 18 U.S.C. 241, 242) has intentionally and deliberately used and is currently intentionally and deliberately using, contractual, leasing and licensing documents, including documents associated with the current licensing process, to further an overall discriminatory plan, and additionally conspired and conspires and acts with others in preventing proper leasing, in causing deprivation of rights, in interfering with civil and constitutional rights, including rights of election and in neglecting to prevent such acts, all in an attempt to bypass a tribe's legitimate government and force the location of a high level nuclear waste facility on an improperly targeted Indian reservation.

(6) PFS' Motion Should be Rejected and Intentional Discrimination Claims

Should be Adjudicated by the Board: PFS' Motion should be rejected because its characterization of the scope of OGD Contention "O" is in error. Additionally, the NRC hearings should be structured in accordance with the Commissions standards for adjudication of intentional racial discrimination, and OGD should present its *prima facie* case, establishing intentional and deliberate racial discrimination claims against PFS.

b. Even Accepting *Arguendo* PFS' Statement of Scope, Its Motion Should Be Rejected: PFS' current Motion for Summary Disposition should be rejected because it relies on "facts" which are in dispute and because of other reasons established in arguments below which

are valid even given PFS' statement of scope.

3. Economic and Sociological Impacts Have Not been Addressed:

a. **PFS is Not Dealing with the Legitimate Tribal Government:** PFS has dealt exclusively with Mr. Leon Bear. PFS has been on notice for some years that Leon Bear does not have authority to represent the Tribe and does not provide reliable information concerning the legitimate plans and intentions of the Tribe or its traditional cultural activities.³ Despite this, PFS relies upon Mr. Bear virtually exclusively, in the stated capacity and authority of Tribal leader, for all information on the Tribe, especially with respect to economic and sociological impacts.

(1) For example, PFS lists Mr. Bear as a witness against OGD Contention "O" specifically because he is the purported Tribal leader and he will testify as such. Because Mr. Bear is in fact not the Tribal leader he claims to be, his testimony will be materially affected, for example as to basis, authority, accuracy and believability. PFS also lists Mr. Bear as an expert source of information concerning issues relevant to OGD Contention "O," including a signed letter and eleven pages of material, specifically because he is the purported Tribal leader, and the letter is signed as such. The content of the information is such that because Mr. Bear is not the Tribal leader the usability of the information, some of which is critical to PFS' submission and relied upon by NRC staff, will be materially affected, for example as to basis, authority, accuracy, and believability.

(2) Because Mr. Bear does not have authority to act on behalf of the Tribe, both PFS

³ For all statements with no references, see OGD's Statement of Facts at Issue, corresponding section and topic for references to declarations and other sources. For example, Fact statement 6 references this statement to the Blackbear Declaration, paragraphs 393 to 400. All statements herein should have one or more facts at issue to support it unless otherwise referenced.

and the NRC are not dealing with the legitimate Tribal government, and critical issues such as questions of willing jurisdiction, public acceptability, representation on the facility safety board, waiver of Tribal sovereignty, receipt and distribution of project funds, and other socioeconomic factors, along with a host of other issues, are not being properly addressed, which materially increases the likelihood and probable harm of adverse disparate impacts, and makes their mitigation more difficult.

(3) Despite PFS' arguments to the contrary, the need to deal with the legitimate Tribal government in order to construct and operate a nuclear facility on the Tribe's reservation is sufficiently coupled to the physical aspects of the project to satisfy *People Against Nuclear Energy v. Metropolitan Edison Co.*, 460 U.S. 766 (1983).

b. **Leon Bear is Without Authority:** Leon Bear is not and has never been the Tribal leader he claims to be. Nor has Mr. Bear been given any authority by the Tribal General Council, the Tribe's only governing body. Sammy Blackbear is the current Tribal leader, having been elected by the Tribal General Council at the last legitimate Tribal election, and Mr. Blackbear will act in that office until the next legitimate Tribal election can be held.

(1) PFS claims that issues touching on "internal Tribal matters" such as (it claims) the authority of Mr. Bear to act on behalf of the Tribe, ought not to be considered by the Board.

(2) OGD, in its Response to PFS' Motion for Protective Order Restricting Scope of Deposition, dated May 24, 2001, showed that the Board not only could and should consider these issues, but the Board has a duty to do so. The pleadings of OGD's May 24th response are hereby incorporated into this response.

c. **Leon Bear Does Not Provide Reliable Information:** Leon Bear does not provide reliable information. He particularly provides misinformation concerning economic issues, the

legitimate plans and intentions of the Tribe, and its traditional social and cultural activities. Mr. Bear provides misinformation as a result of his involvement in criminal activities, his prejudice against those who oppose the PFS Project, and his lack of understanding of or familiarity with Goshute social and cultural traditions.⁴

(1) Because the DEIS relies virtually exclusively on the unsupported statements of Mr. Bear, the DEIS is deficient and inadequate on economic and sociological issues.

d. **PFS Project Funds Have Not Reached the Tribe:** Project funds are not reaching the Tribe, but are being diverted, because there is a lack of project controls to assure project funds will reach the Tribe. This has caused and will continue to cause disparate socioeconomic impacts. PFS argues that the issue of diversion of project funds such that the funds never reach the Tribe is beyond the scope of OGD Contention "O" (diversion of funds is purportedly not an "environmental impact within the ambit of NEPA"), while at the same time arguing that the Tribe's reception of the funds is a major reason why the environmental impacts of the project are not adverse.⁵ This sort of sophistry is designed to block proper investigation of OGD's allegations that PFS' improper dealings have diverted project funds into criminal activities⁶ which

⁴ While Mr. Bear's family was adopted by the Band when Mr. Bear was young, Mr. Bear has no Goshute blood and has not taken an interest in Goshute social and cultural traditions.

⁵ PFS argues this in its Motion (no page numbers and no paragraph numbers) on approximately page 9, paragraph beginning "Third . . ." which goes on to state: "It is not controverted that PFS will make payments to the Band (i.e., the relevant community here) and the DEIS discusses the [purportedly beneficial] effects thereof." PFS knows that project funds are not reaching the Band, this has been an issue for years and will be unless it is resolved or until proper project controls are in place.

⁶ PFS goes so far as to argue that because some of the Tribal members had received project money (apparently even if by way of alleged bribery and corruption through direct improper dealings with PFS, thus bypassing the Tribe's legitimate government, and any hope of proper distribution to Tribal members) then whether or not the Tribe as a whole received any project funds became an issue "within" the "community" and the NRC is, PFS claims, barred from considering differing socioeconomic effects on subgroups of a community. Even if PFS' fallacious arguments are given credence, *Claiborne* not only permits but requires that the NRC consider disparate impacts "with particularly close scrutiny" including differing effects among community subgroups. (*Claiborne*, at 5. b., note 24 and paragraph referencing note 24, and paragraph three paragraphs above, beginning "We turn now .

have themselves caused and are continuing to cause disparate socioeconomic impacts.

e. **Other Economic Impacts have Not been Addressed:** The DEIS inadequately deals with other economic impacts such as: No other industries or use of the land is being pursued because of the PFS facility, including a lucrative rocket test facility; Traditional use of the land will be significantly adversely impacted, especially agriculture and livestock.

f. **Other Sociological Impacts Have Not been Addressed:** The DEIS does not address at all certain sociological impacts peculiar to constructing and operating nuclear waste facilities on Indian reservations, in the middle of Native American communities. These include damages due to blatant and facially evident discriminatory effects caused by disparate treatment along racial lines, damages due to offenses against Native American morality, and damages due to disruption of Native American social and cultural traditions.

(1) **Disparate Treatment along Racial Lines:** Constructing and operating a high level nuclear waste facility on an Indian Reservation subjects a protected class of persons to a disparaging experience with respect to their peers and with respect to the general population as a whole. This is caused because an undesirable waste facility is physically located where it disparately burdens one race to the exclusion of all others such as to induce the social stigma of racial discrimination. This causes the damages associated with racial discrimination, even if the conditions had not resulted from intentional or deliberate racial discrimination. These damages include stigma, humiliation, emotional distress, general malaise, and individual, family, and community disesteem.

(a) PFS, with an astonishing lack of sensitivity, belittled these very real and litigable damages, lumping them with others (see below), and dismissing them as “psychological impacts”

..”).

which the Board is barred (PFS claims) from taking into consideration (PFS Motion at approx. pp. 7-9).⁷

(b) In fact, PFS belittles and trivializes the NRC's environmental justice program and associated issues as apparently just something tacked onto NEPA in order to satisfy an administrative directive, and relegates them to "insignificant or peripheral" status, to be limited "in proportion to their significance" and therefore to be satisfied by a "brief presentation" in the DEIS (PFS Motion at approx. pp. 3-4).

(c) In stark contrast with PFS' stated position, the Commission in *Claiborne* found that "particularly close scrutiny" of impacts "on minority and impoverished citizens" in fact "lies close to the heart of NEPA" and requires careful, detailed, and "particularized" consideration in the EIS (*Claiborne*, at 5. b.).

(d) Further, the Commission in *Claiborne* reiterated the NRC's strong commitment to environmental justice goals, referred with approval to statements concerning the "pernicious environmental effects of society wide institutional racism" and lauded and supported the Board's sensitivity to the plight of minorities because "racial discrimination is a persistent and enduring problem in American society" (at 5.a., first paragraph and 5.a.3. Second paragraph). The commission does this even though, under the circumstances in *Claiborne*, the NRC standards (see above) for adjudication of intentional or deliberate racial discrimination were not met, in part because the intervenor had not properly pled such (at 5.a. and especially note 22). The

⁷ PFS cites *Metropolitan Edison Co. v. People Against Nuclear Energy*, 460 U.S. 766 (1983). But fear of race related social stigma is a different issue from an irrational fear of accidents. *Metropolitan Edison* only excludes "psychological stress" due to vague or irrational fears of accidents (felt by the general population) not casually related to actual risks or a change in the physical environment (at 774), and does not exclude damages flowing from disparate burdening along racial lines, directly related to the physical location of an undesirable facility (see *Claiborne*, note 26, where the Commission explains the difference).

Commission went on to emphasize that what the intervenor had pled was claims that racial discrimination resulted from the siting process. Such discriminatory impact claims, which the Commission stated do not necessarily hinge on claims of “a deliberate and conscious intent to discriminate against African-Americans” was cognizable under NEPA, and would be considered “in the evaluation of the environmental and socioeconomic impacts of the siting decision in this case” (at 5. a., second paragraph).

(e) To this end, the Commission praised the Board for compiling the necessary extensive statistics and other information on the affected minority population (at 5.a.3. & 4.). This includes adequate demographics and information about living conditions, housing, plumbing, motor vehicles, education, and special or unique burdens or barriers, especially those related to race, poverty, and age (at 5.a.4. & 5.b.).

(f) The Commission went on to charge the Board, even though the EIS was generally adequate with respect to this information, with an obligation such “that the Board , having identified these facts in the first place, will remain cognizant of them when it finally reviews the staff’s discussion of the impacts of the [project], as well as mitigation measures, and arrives at the ultimate decision on the cost/benefit balance” (at 5.a.4.). Significantly, this charge to the Board was placed by the Commission before, and apart from, its consideration of disparate impacts, but rather during its consideration of racial discrimination (at 5.a.4. and before 5.b.).

(g) The Commission then found disparate impacts along racial lines, as claimed by interveners, as racially discriminatory effects (whether deliberate and intended or not), which had not been properly addressed by the EIS and for which adequate mitigation measures had not been advanced (at 5.b.1.ii. & 3.).

(h) In the present case, the DEIS is inadequate in addressing needed information

concerning the affected minority population (virtually 100% Native American). Demographics and information about living conditions, housing, plumbing, motor vehicles, education, and special or unique burdens or barriers are scanty at best. What little information that is included is inaccurate or misleading because PFS and NRC Staff have relied exclusively on the unsupported and unverified statements of Mr. Bear (as discussed above). For example, contrary to the unsupported and unverified statements of Mr. Bear, the majority of the Goshutes living on the reservation are living in abject poverty, in inadequate housing without working plumbing or weatherization, without reliable motor vehicles, with restricted education, and without meaningful employment opportunities.

(i) Members of this impoverished minority target population are sustaining the damages discussed herein from discriminatory effects, resulting from disparate impacts occurring along racial lines.⁸ Such impacts lie “close to the heart of NEPA” and such discriminatory effects, as well as mitigation measures, should be considered by the Board, whether deliberately or intentionally caused or not. Additionally the DEIS must be revised to address these issues.

(2) **The PFS Project Offends Native American Morality:** The placement of a nuclear waste storage facility on sacred land instead of on land suited for such waste offends Native American morality. While there are places suited for such waste facilities, sacred land must not be so used. Specifically, the proposed site on the Skull Valley Reservation is sacred land and must not be used. The placement of the facility on sacred land enhances and exacerbates the damages sustained by the target protected population, as discussed above under Disparate Treatment Along Racial Lines. Such placement of the facility significantly decreases the value of the surrounding land, from the point of view of Native Americans.

⁸ Blackbear Declaration ¶ 399.

(a) These issues are not addressed but must be addressed in the DEIS.

(3) **The PFS Project Disrupts Tribal Social and Cultural Traditions:** The PFS facility on the proposed site will disrupt Tribal social and cultural traditions.

4. Disproportionate Effects and Cumulative Impacts:

a. **No Studies Addressing Disproportionate Effects:** There have been no studies addressing disproportionate effects. The DEIS does not address any disproportionate effects with respect to any of the potentially health or environmental affecting impacts it considers. PFS has stipulated that PFS has conducted no studies whatever addressing disproportionate effects.

(1) **PFS' Strategy of No Studies is Erroneous:** PFS is in error in maintaining that if all aspects of its project are acceptable then disproportionate effects are irrelevant. Project impacts which have the potential to cause disproportionate effects on minority or low income populations must be identified and the potential evaluated. This is necessary even if the impacts would normally be acceptable for a general population.

(a) For instance, impacts that are not significant or not adverse for a general population may be significant or adverse for the specific minority or low income population at risk when "factors peculiar to those communities" are considered in the analysis, as required by the Commission in *Claiborne* (at 5. last paragraph, above section 5.a.).

(b) As an example, in *Claiborne*, the relocation of Parish Road 39 would not have had much effect on a general population (an increase in travel distance of only .38 miles) and so the EIS did not adequately identify the potentially disproportionate effects (at 5.b.1). But the Board's required analysis determined that the relocation would burden certain subgroups of the minority and low income target communities due to peculiarities and inequitable factors within these

subgroups which were brought to light and considered by the Board, but not addressed in the EIS (at 5.b.1.).

(2) **Inequitable Racial Burdens are Issues for Consideration:** Inequitable racial burdens themselves constitute separate issues for consideration. This is an additional reason why the DEIS must identify project impacts which have the potential to cause disproportionate effects even if the impacts would normally be acceptable for a general population. For example, Congress has determined that a given limit of whole body radiation exposure to the general population is acceptable, even though it is considered that this will lead to some increase in incidences of cancer within this same general population.

(a) The fact that, as a result of discriminatory effects of disparate project impacts, the exposed population is exclusively Native Americans, and that only Native Americans will be victimized by this discriminatory effect and suffer all of the increased incidences of cancer, constitutes a separate issue which must be taken into account when racial burdens are assessed as part of mitigation consideration and as part of the cost benefit evaluation (see above).

(b) In the present case, the DEIS fails to address disproportionate effects issues even though it additionally fails to establish that radiation exposure cannot exceed the whole body radiation limits.

(c) The inequity of this racial burden is further exacerbated by the additional facts (also not adequately addressed in the DEIS) that the target population is not a “willing jurisdiction” or “volunteer host community.” The facility is being forced onto their trust land without their permission, and they will receive no compensation or other meaningful benefits.

b. **Improper Cumulative Impact Studies:** PFS does not provide (nor does the DEIS) any proper cumulative impact studies. Instead PFS claims that if the project has no impacts then

there can not be any cumulative impacts. First, this reasoning is erroneous because it ignores, without justification or even explanation, any possible consideration of synergistic effects. Second, this reasoning is similar to the reasoning erroneously used to justify not addressing disproportionate effects, and subject to the same criticisms (see above). PFS' statements of "no impacts" is inadequate because what is considered not significant for some considerations may be significant for others (see examples in facts statements), especially when PFS and the DEIS has failed to establish "no impacts" (see below). Also an impact that may be acceptable for the general population may not be acceptable when the peculiarities of the target population and its subgroups are analyzed, especially in terms of racial burden and associated mitigation consideration and cost benefit evaluation (see examples provided in facts statements).

5. Project Effects Have Not Been Fully Identified: PFS' Summary Disposition Motion must be denied because the effects and associated impacts of the proposed action have not been fully identified. To achieve environmental justice, NRC must, at a minimum, identify and address "as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies and activities on minority populations and low income populations in the United States." Executive Order 12898, 59 Fed. Reg. 7,629 (1994). As explained below, the Board has not yet finally determined the human health or environmental effects of the Applicant's proposed action. Until that is done, the Board cannot determine whether the effects are adverse and, most importantly, whether such effects will be borne disproportionately by minority and low income populations. As a result, the conclusion in the DEIS that "no disproportionately high and adverse impacts will occur to the Skull Valley Band" is currently unsubstantiated. DEIS 6.2.1.2. The Applicants' Motion, which is based on that

conclusion, must therefore be denied.

There are a number of unresolved and outstanding issues in contentions currently in litigation before the Board involving project effects and associated impacts for which the effects and associated impacts have not been determined (and for which no disproportionate effects and a cumulative impact analysis has been completed). This includes Utah Contentions J, K, L, O, V, W, Z, AA, DD, and QQ.(for a description of affected issues, see facts statements). These and all others must be resolved before the Board can finally identify the effects (and associated impacts, singly or cumulative or in combination) of PFS' proposed action. Depending on how the contentions listed above are resolved, some of the effects presently identified in the DEIS and the SER may significantly change. Therefore PFS' Motion must be denied.

6. PFS and the DEIS Fail to Adequately Address Damages to Property Values: The DEIS inadequately addresses impacts to property values in part because it fails to consider the target population's differing value system, the only people who can live on the reservation and therefore the only people who can establish the value of the land.

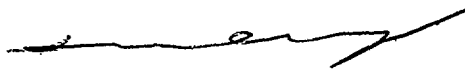
Native Americans value their reservation land in spiritual terms, they consider it sacred and it is tied up with religious factors, so Native Americans primarily move to the reservation for spiritual and traditional lifestyle reasons. Because Native Americans believe a nuclear waste storage facility is not a spiritually suitable use for sacred reservation land, the facility will make a big adverse impact on the spiritual and traditional lifestyles and therefore on the value of the remaining land on the reservation.

The DEIS also erroneously relies on project funds reaching the tribe and surrounding political subdivisions and on the unsupported and unverified but inaccurate and misleading

statements of Mr. Bear. For examples of the kinds of problems this leads to, see the corresponding fact statements.

Respectfully submitted,

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June 28, 2001

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

June 28, 2001

Before the Atomic Safety and Licensing Board

Private Fuel Storage, a Limited Liability Company;

(Independent Spent Fuel Storage Installation).

Docket No. 72-22
ASLBP No. 97-732-02-ISFSI
June 28, 2001

**STATEMENT OF MATERIAL FACTS AT ISSUE IN SUPPORT OF OHNGO
GAUDADEH DEVIA'S (OGD) RESPONSE TO PRIVATE FUEL STORAGE'S (PFS)
MOTION FOR SUMMARY DISPOSITION OF OGD CONTENTION O**

OGD hereby provides this Statement of Material Facts at Issue, in support of OGD's response to PFS's May 25, 2001 Motion for Summary Disposition of OGD Contention O. This Statement includes references to PFS' purported facts, which are in dispute.

Facts Related to the Scope of OGD Contention O:

1. The Licensing Board admitted OGD Contention O and ruled that Contention O was:

Admissible as supported by bases establishing a genuine material dispute adequate to warrant further inquiry, with the caveat that the contention is limited to the disparate impact matters outlined in bases one, five, and six. Moreover, basis six is limited to effects of the PFS facility on property values in and around the Skull Valley Goshute community as a component in the "environmental justice" assessment of any disparate impacts suffered by minority and low-income communities. (*Private Fuel Storage, L.L.C.*, (Independent Fuel Storage Installation), LBP-98-7, 47 NRC 142, 233 (1998)).

2. PFS, in its purported Statement of Facts On Which No Genuine Dispute Exists (purported facts labeled 1, 3, 14, & 30, all of which OGD disputes, see below), and in its Motion For Summary Disposition Of OGD Contention O, misleadingly states OGD's contention O and Bases 1, 5, and 6 as follows:

The license application poses undue risk to public health and safety because it fails to

address environmental justice issues. . . . Presently, the area is surrounded by a ring of environmentally harmful companies and facilities. Within a radius of thirty-five (35) miles the members of OGD and the Goshute reservation are inundated with hazardous waste from: Dugway Proving Ground, Deseret Chemical Depot, Tooele Army Depot, Envirocare Mixed Waste storage facility, APTUS Hazardous Waste Incinerator, and Grassy Mountain Hazardous Waste Landfill.

1. The proposed plant will have negative economic and sociological impacts on the native community of Goshute Indians who live near the site. The application demonstrates no attempts to avoid or mitigate the disparate impact of the proposed plant on this minority community.

5. The Environmental Report ("ER") fails to consider disproportionate cumulative impacts from Dugway Proving Ground ("Dugway"), Deseret Chemical Depot, Tooele Army Depot, Envirocare Mixed Waste storage facility ("Envirocare"), APTUS Hazardous Waste Incinerator ("Aptus"), and Grassy Mountain Hazardous Waste Landfill ("Grassy Mountain") that may be suffered by members of the Skull Valley Goshutes.

6. The ER fails to address the effect that the PFSF will have on property values in and around the Skull Valley Goshute community.

3. PFS' purported facts 1, 3, 14, & 30 are hereby disputed because PFS' improper statement of OGD Contention O is missing relevant parts, and contains statements taken out of context, so as to give the false and misleading impression that the scope of the contention is much narrower, with purported limitations not imposed by the Board or Commission (Compare PFS' purported facts 1, 3, 14, & 30 and corresponding or referencing statements in PFS' Motion with the contention taken in context as provided below and in corresponding or referencing statements in OGD's Response).

4. OGD Contention O, and Bases, including one, five, and six, taken in context, state:
OGD O -- Environmental Justice Issues Are Not Addressed

CONTENTION: The license application poses undue risk to public health and safety because it fails to address environmental justice issues. In, Executive Order 12898, 3 C.F.R. 859 (1995) issued February 11, 1994, President Clinton directed that each Federal agency "shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human

health or environmental effects of its programs, policies and activities on minority populations and low-income populations in the United States." It is not just and fair that this community be made to suffer more environmental degradation at the hands of the NRC. Presently, the area is surrounded by a ring of environmentally harmful companies and facilities. Within a radius of thirty-five (35) miles the members of OGD and the Goshute reservation are inundated with hazardous waste from: Dugway Proving Ground, Utah Test and Training Range South, Deseret Chemical Depot, Tooele Army Depot, Envirocare Mixed Waste storage facility, APTUS Hazardous Waste Incinerator, Grassy Mountain Hazardous Waste Landfill and Utah Test and Training Range North.

BASES: The National Environmental Protection Act requires the NRC to fully assess the impacts of the proposed licensing action, and to weigh its costs and benefits. 42 U.S.C. §102, PFS' Environmental Report contains a brief "benefit-cost analysis" that is improperly slanted in favor of the benefits of the project, and contains little discussion of the potentially significant impacts and their environmental and social costs. The discussion is inadequate with respect to the following issues:

1. The proposed plant will have negative economic and sociological impacts on the Native community of Goshute Indians who live very close to the proposed site. The ER does not reflect consideration of the fact that the plant is to be placed in the dead center of an Indian Reservation. The proposed siting of the ISFSI in a minority community follows a pattern noted in a 1987 study by the United Church of Christ, marked as Exhibit 13, attached and referenced herein and made apart hereof, entitled, "Toxic Wastes and Race in the United States, A National Report on the Racial and Socio-Economic Characteristics of Communities with Hazardous Waste Sites." The study found that "race proved to be the most significant among variables tested in association with the location of commercial hazardous waste facilities. This represented a consistent national pattern." The study also found that "(i)in communities with one commercial hazardous waste facility, the average minority percentage of the population was twice the average minority percentage of the population in communities without such facilities." The License Application does not demonstrate any attempts to avoid or mitigate the disparate impact of the proposed plant on this minority community.

Further it has been a long standing policy of the federal government to actively recruit and site waste facilities on tribal lands throughout the United States. See Exhibit 14, a Letter from the Office of the Nuclear Waste Negotiator which contains the MRS Grant Application List as of June 30, 1993. Of the 20 entities in phase I of the MRS process, 16 of the entities are Tribes or Tribal corporations. Of the 9 entities in Phase II of the MRS process, 9 are Tribal or Tribal Corporate entities. Grace Thorpe, founder of the National Environmental Coalition of Native Americans (NECONA) which was formed in 1993 to lobby against the MRS or any nuclear waste disposal on Indian Lands, recalls that in 1987 Congress passed the Nuclear Waste Policy Act, Which set in motion a nationwide search for a community that would accept a temporary storage site, Native American lands were targeted. See, Exhibit 15 entitled, Our Homes are not Dumps: Creating Nuclear-Free Zones, attached and referenced herein and made a part hereof. Grace Thorpe has said,

“How ironic that, after centuries of attempting to destroy Native American sovereignty, the U.S. Government is suddenly interested in promoting Tribal Sovereignty-just so it can dump its lethal garbage!”

5. Pursuant to Executive Order 12898, 3 C.F.R. 859 (1995), and an accompanying memorandum for the Heads of All Departments and Agencies, 30 Weekly Comp. Press. Doc. 279 (Feb. 14, 1994), there are two aspects to environmental justice: First, each agency is required to identify and address disproportionately high and adverse health or environmental effects on minority and low-income populations; and second, each agency must ensure that its programs, policies, and activities that substantially affect human health or the environment do not have the effect of subjecting persons and populations to discrimination because of their race, color, or national origin. The first of these requirements addresses one of the basic issues raised in this license application. The disproportionate adverse health or environmental effects on a minority population is a troubling aspect of the site chosen for this ISFI facility.

[Basis 5 documents exposure of the target population to environmental and health effects from surrounding hazardous facilities]

[Basis 5 goes on to state that the environmental assessment] needs to look at these facilities as part of the cumulative impacts and disproportionate impacts that the OGD community has been made to suffer.

PFS in its license application has failed to consider any of the disproportionate impacts that may be suffered by the members of the Goshute Tribe who live in the area or OGD members and others who may be effected by the proposed ISFSI.

Moreover, the ER does not reflect consideration of the fact that the ISFSI site is to be placed in the dead center of a rural Native American Community.

[Basis 5 then discusses the sheep kill incident of 1968 and nerve gas contamination on the small reservation].

6. The ER fails to address the effect that the facility will have on the property that is owned by members of OGD or by people living in and around the area of the proposed ISFSI site.

The property values of the surrounding lands will be diminished by the ISFSI site itself, the dangers of nuclear waste transport, and the fear that these activities engender in the public.

[Basis 6 then establishes, with citations to case law, that this sort of property value damage is justiciable and litigable]

The property values of the tribal members and members of the OGD will be adversely impacted by the siting of this facility. The danger inherent in the transport of nuclear waste will also decrease their property values. The NRC [Staff] has utterly failed to consider this concern.(OGD Contentions, dated 24 November, 1997, pp. 27 - 36).

5. PFS purported facts 1, 3, 14, & 30 are further disputed to the extent they, taken together or separately, purport to limit OGD Contention O to less than the full range of adjudication of

environmental justice issues as provided for by the Commission in *Claiborne* (see *Louisiana Energy Services, L.P.* (Claiborne Enrichment Center), CLI-98-3, 47 NRC 77 (1998)) including racially discriminatory impacts, which the Commission stated do not necessarily hinge on claims of “a deliberate and conscious intent to discriminate against African-Americans” which the Commission stated were cognizable under NEPA, and were to be considered “in the evaluation of the environmental and socioeconomic impacts of the siting decision” and to be taken into account when the Board considers mitigation measures and when arriving at “the ultimate decision on the cost/benefit balance” (At 5. a., second paragraph, and 5. a. 4.), and even the adjudication of intentional or deliberate racial discrimination, if the Board permits (see OGD Contention O and Bases 1, 5, & 6, where, when taken in context (see above), all aspects of adjudication of environmental justice issues are adequately supported, as shown in corresponding and referencing paragraphs of OGD’s Response).

Facts related to Economic and Sociological Impacts:

6. PFS purported facts 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, & 40 (and any other) are hereby disputed, to the extent they purport to show, taken together or separately, that PFS’ application, including the DEIS, adequately addresses all (or any) environmental justice issues with regard to economic and sociological impacts, because many issues are not addressed at all (see below), and what is addressed is skimpy and based virtually exclusively on erroneous or misleading information, in reliance on the unsupported and unverified statements of Mr. Leon Bear (see Blackbear Dec. ¶¶ 393-400), and on the erroneous assumptions that: the tribe and other entities are receiving or will receive project funds (see Blackbear Dec. ¶¶ 53d, 328-340, 393-400); PFS and the NRC are dealing with the legitimate Tribal government and

Mr. Bear has authority to represent the Tribe (see Below and Blackbear Dec. ¶¶ 171-210, 393-400; Payne Dec. ¶¶ 6, 7).

7. Despite statements by Mr. Bear to the contrary, project money has not and is not reaching the Tribe (Blackbear Dec. ¶¶ 53d, 328-340, 393-400).

8. Despite statements by Mr. Bear to the contrary, the Tribe and its members have not benefitted and is not benefitting from project funds, either directly, because project funds have been diverted before reaching the Tribe (Blackbear Dec. ¶¶ 53d, 328-340, 393-400; Payne Dec. ¶ 8), or indirectly, because payments to surrounding communities are bared by new state law provisions (ex. SB 81).

9. Despite statements of Mr. Bear to the contrary, the majority of the Goshutes living on the reservation are living in abject poverty, in inadequate housing, without working plumbing or adequate sewage disposal or weatherization, without reliable motor vehicles, with restricted education, and without meaningful employment opportunities, with some of the families having little or no utilities, going without adequate heat, or any electricity for years (Blackbear Dec. ¶¶ 393-400; Payne Dec. ¶¶ 3, 4).

10. The PFS project will provide virtually no employment opportunities to Tribal members because of lack of education and qualifications (Leon Bear Deposition transcript pp. 115-120).

11. Despite statements of Mr. Bear to the contrary, PFS and the NRC are not dealing with the legitimate tribal government and Mr. Bear does not represent the Tribe (see below and Blackbear Dec. ¶¶ 171-210, 393-400).

12. PFS has been on notice since March of 1999 that its actions were aiding and supporting criminal acts (Blackbear Dec. ¶¶ 328-340, 393-400).

Facts Related to Leon Bear Not Representing the Tribe (subheadings are underlined):

The Skull Valley Band of Goshute Indians:

13. The Skull Valley Band of Goshute Indians ("Band" or "Tribe" herein) is a federally recognized BIA supervised Native American Indian tribe with a general council system of government that operates pursuant to its Tribal traditions (Blackbear Dec. ¶ 8).
14. The Band is supervised by the BIA's Uintah and Ouray Agency in Fort Duchesne, Utah within the BIA's Phoenix Area (Blackbear Dec. ¶ 26).
15. The Band has no written constitution or other written governmental foundation documents (Blackbear Dec. ¶ 10).
16. The Tribal General Council, comprised of all adult members of the Band, is the sole governing body of the Band (Blackbear Dec. ¶¶ 12, 13).
17. The Band also has three elected officials, a Chairman, Vice Chairman and Secretary, that form an Executive Committee and function as explicitly directed by the Tribal General Council (Blackbear Dec. ¶ 19).
18. Neither the Executive Committee as a whole nor any of the elected Tribal officers individually have any authority to act other than as expressly authorized and instructed by the Tribal General Council (Blackbear Dec. ¶ 19).
19. The Skull Valley Band has approximately 120 enrolled members (Blackbear Dec. ¶ 12).
20. Just over one-half of the Band are adults and thus members of the Tribal General Council (Blackbear Dec. ¶ 12).

Conspiracy, Deprivation and Discrimination:

21. PFS, in violation of applicable civil rights statutes (including without limitation 42 U.S.C. §§ 1981, 1982, 1983, 1985, and 1986, and 18 U.S.C. 241 and 242) has intentionally and deliberately used, and is currently intentionally and deliberately using, contractual, leasing, and licensing documents, including documents associated with the current licensing process, to further an overall discriminatory plan, and additionally conspired and conspires and acts with others in preventing proper leasing, in causing deprivation of rights, in interfering with civil and constitutional rights, including rights of election, and in neglecting to prevent such acts, all in an attempt to bypass a tribe's legitimate government, and force the location of a high level nuclear waste facility on an improperly targeted Indian reservation (Blackbear Dec. ¶¶ 53d, 328-340, 393-400; Payne Dec. ¶ 9).

22. PFS and other entities have conspired to aid and have aided others including Mr. Bear in depriving Tribal members, including members of OGD, of equal benefits, protections, rights, privileges and immunities in violation of the Constitution and the Indian Civil Rights Act(Blackbear Dec. ¶¶ 53d, 328-340, 393-400).

23. This has resulted in an invidiously discriminatory pattern of flagrant actions, in furtherance of the PFS project, against tribal members and their Tribe, by PFS and others acting in concert with PFS, such as to cause disparate impacts and exacerbate disparate impacts resulting from other project issues (Blackbear Dec. ¶¶ 53d, 328-340, 393-400).

Partial History of Events:

24. The following partial history of events shows pertinent interactions between and among:

a. the Tribe and its members;

- b. Leon D. Bear, purported Tribal leader;
- c. Danny Quintana, purported Tribal attorney;
- d. PFS;
- e. Sammy Blackbear, current legitimate Tribal leader; and
- f. Margene Bullcreek, member of OGD.

January 8, 1994: Leon Bear Recalled and Sammy Blackbear Elected

25. Leon Bear and the administration in which he claimed to be a Tribal officer were recalled by the Tribal General Council and then separately and subsequently Bert Wash and Sammy Blackbear were duly elected as Tribal Chairman and Vice-Chairman (Blackbear Dec. ¶¶ 172-179).

January 19, 1994: Recall of Bear Regime Acknowledged as Valid by BIA

26. BIA acknowledged that the recall of the Bear regime was valid and even that Bert Wash and Sammy Blackbear were elected to replace the bear regime (Blackbear Dec. ¶¶ 182 & 185).

January 31, 1994: BIA Unlawfully Restores Bear Regime

27. The BIA, through its actions (unlawful and therefore void), effectively removed from power (but not from office) the duly elected Bert Wash and Sammy Blackbear administration, which was duly elected to replace the recalled Bear administration, and instead returned the ousted, corrupt Bear regime to power by allowing the admittedly recalled Tribal officers to decide if their duly elected replacements should be recognized (Blackbear Dec. ¶¶ 182-187 & 198-200).

28. Protests by the legitimate Tribal government were effectively ignored and all requests made to the BIA and/or Department of the Interior since then, by the legitimate and proper Tribal

officers and the members of the Tribal General Council, have been without an effective official response (Blackbear Dec. ¶¶ 207-210).

29. In most cases, not even a written acknowledgment has been received from the BIA and/or Department of the Interior (Blackbear Dec. ¶¶ 208).

30. Members of the Tribal General Council allege there has not been a legitimate election since January 8, 1994, and the illegitimate Bear regime remains in power through bribery and corruption, which continues because of the perceived support for the corrupt Bear regime by the BIA and the BIA/Department of the Interior's inaction in failing to perform requested investigations of submitted allegations (Blackbear Dec. ¶¶ 196, 208-210).

February 9, 1994: BIA Supported Bear Regime Fosters Unauthorized Waste Facility

31. As soon as it was unlawfully reinstated by the BIA, the improperly restored, corrupt Bear regime immediately advanced its high-level nuclear waste project that was the basis for its recall less than one month before (Blackbear Dec. ¶¶ 173-176, 197).

32. A major issue behind the recall, according to the recall documents, was the proposed high-level nuclear waste facility sponsored by Danny Quintana, Leon Bear and the rest of the Bear regime, especially the failure of the regime to disclose to the Tribal General Council full and complete information about that proposal and the hundreds of thousands of dollars in federal grants associated with the proposal, which had disappeared, and the attempt by the Bear regime to bypass the Tribal General Council in pursuing the project (Blackbear Dec. ¶¶ 173-176).

33. Once the Bear regime was unlawfully restored to power by the BIA, the missing money and the fact that the nuclear waste project was bypassing the Tribal General Council were no longer issues of concern to the BIA (Blackbear Dec. ¶¶ 199).

June 28, 1995: PFS Reveals Ongoing Discriminatory Plan

34. PFS publicly acknowledged its already implemented plan to target small Indian tribes in low population western states for siting of private high-level nuclear waste storage facilities, as a means of avoiding the political resistance associated with siting high-level nuclear waste storage facilities anywhere else (Representatives of Northern States Power Co.(now Xcel Energy), the lead member of PFS, publicly acknowledged an overall plan for siting waste facilities on Indian reservations, as a means of avoiding the political resistance associated with siting the facilities anywhere else, thus taking advantage of Indians having been “relegated to such a position of political powerlessness” due to factors related to their ancestry and ethnic background. (See *Pylar v. DOE*, 457 U.S. 202, 217 n. 14 (1982). This acknowledgment was made at the High Level Nuclear Waste Policy Hearings, beginning on June 28, 1995, and lasting through July of 1995, before subcommittees of the One Hundred Fourth Congress. (*Congressional Report No. 104-24*, pp. 128-129)).

1996: PFS Begins Paying Leon Bear

35. PFS commences paying Leon Bear to deliver the Skull Valley Reservation into PFS control for the storage of high-level nuclear waste, in furtherance of PFS overall discriminatory plan (Blackbear Dec. ¶¶ 393-396).

36. These payments began well before the Purported Lease Agreement (see below) was signed and PFS provided these payments and later project funds, in support of an ongoing scheme of bribery, corruption, and violation of civil rights (Blackbear Dec. ¶¶ 328-340, 393-396).

37. PFS knew that these funds were being so diverted and that no funds were reaching the Tribe (Blackbear Dec. ¶¶ 53d, 328-340, 393-396).

May 20, 1997: Purported Lease Agreement Signed Without Authorization

38. PFS and members of the Leon Bear regime signed what is purported to be an agreement or lease (“Purported Lease Agreement” herein) (Blackbear Dec. ¶¶ 248).

39. The Bear regime lacked authority to sign the Purported Lease Agreement for or on behalf of the Band (Blackbear Dec. ¶¶ 248-258).

40. Most members of the Tribal General Council have never seen the Purported Lease Agreement and the Tribal General Council has never approved it (Blackbear Dec. ¶¶ 248-258).

41. Any apparent support for the Purported Lease Agreement and PFS facility is maintained through bribery and corruption, which continues (Blackbear Dec. ¶¶ 328-338).

Facts Related to Other Economic and Sociological Impacts:

42. PFS purported facts # 8 is particularly egregious because it acknowledges that ‘broader cultural values’ held by Native Americans living adjacent to the proposed facility site are at issue, along with “impacts on natural resources, reverence for the larger area and sacred religious ceremonies” and that the NRC Staff “assessed the potential for such impacts and concluded that construction and operation of the PFSF would have a small potential for affecting Tribal cultural values or traditional cultural properties” implying a careful and independent investigation and detailed evaluation of these issues, but a careful reading of the DEIS reveals no such thing, the NRC staff confined itself to unhelpful generalities and again relied solely on the unsupported and unverified misrepresentations of Mr. Bear (see DEIS § 4.6.3 and at 6-31 and 4-38).

43. The facility will have an adverse impact medicinal plants and religious ceremonies being grown or performed on the reservation (Blackbear Dec. ¶¶ 399, 400).

44. No other industries or use of the land is being pursued because of the PFS facility, including a

lucrative rocket test facility (Blackbear Dec. ¶ 53e).

45. Traditional use of the land will be significantly adversely impacted, especially agriculture and livestock (Blackbear Dec. ¶¶ 399, 400).

Facts Related to Disparate Impacts and Cumulative Impacts:

46. PFS' purported facts 2, 3, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28 , & 29 (and any other) are hereby disputed, to the extent they purport to show, taken together or separately, that PFS' application, including the DEIS, adequately addresses all (or any) environmental justice issues with regard to disproportionate effects or impacts or associated disparate impacts, or disproportionate cumulative impacts, because PFS has admitted that no disproportionate effect or impact studies, cumulative or otherwise, disparate or otherwise, discriminatory or otherwise, have been conducted of any kind, including with respect to any impact studies that were performed (health, environmental, air, water, hydrology, radiation, radioactivity, economic, sociological, cultural, etc.), which in all cases did not include any study of any disproportionate impact aspects (see transcript of Joint Deposition of Leon Bear and John Donnell, pp. 66, 67, 68, 69, 72, 74, 76, and 77; additionally, PFS attorney of record Jay Silberg admitted that no disproportionate impact studies of any kind had been conducted by or for PFS or to PFS' knowledge, and that PFS would stipulate to this, in discussions between Mr. Silberg and Mr. Steadman, concerning the conditions for a deposition of John Parkyn, soon after the deposition of John Donnell, which conditions were reflected in their joint Motion)

47. PFS' apparent position that an impact can have no disproportionate impact unless the impact itself, taken in isolation and in absolute terms, is first both "high" and "adverse" (see PFS' added emphases in) and therefore, since no impacts should ever be both "high" and "adverse" according

to this standard, no disproportionate impact studies are needed, as a programmatic policy, is erroneous, not only because PFS has not met (and possibly cannot meet) its standard (some impact issues have not yet been resolved or are in dispute, see below) but because no matter how the terms “high” and “adverse” are defined in the abstract, the meanings of the terms “high” and “adverse” for the purposes of environmental justice requirements are modified by the conditions engendered by the total phrase, which includes the word “disproportionately”, which makes the meanings of these terms relative rather than absolute, and dependant on effects which “become apparent only by considering factors peculiar to [the affected target] communities” (*Private Fuel Storage, L.L.C.* (Independent Spent Fuel Storage Installation), CLI-98-13, 48 NRC 26, 35-36 (1998); see also examples discussed by the Commission in *Claiborne* (section 5. b. 1.) where impacts which were not significant, or even very adverse, to the general population, were disproportionately important and adverse to a target population’s subgroup, requiring mitigation and special consideration (for a more detailed treatment, see OGD’s Motion on this issue).

48. There are a number of contentions still outstanding that must be resolved

before the Board can finally identify the effects of the Applicant's proposed

action; Contention Utah K - Credible Accidents. The Board denied summary disposition in areas related to military aircraft training in Skull Valley and over the Utah Test and Training Range; aircraft flying Skull Valley en route to Michael Army Air Field at Dugway Proving Ground; and the cumulative risk from military, commercial, and personal aircraft. See LBP0119. Due the vast area of the PFS facility the probability of an aircraft crash into the PFS facility is significantly higher than a resident in Skull Valley. Also, given the nature of the facility, pilots will likely use the facility as a turning point increasing the probability that a F16 would crash into the PFS facility. Any aircraft crash that released radiation would disparately impact the Skull Valley Band members and other minority and low populations living on the Reservation due to their proximity to the facility. Contention Utah L - geotechnical. A motion for summary disposition is still pending before the Board. See

Applicants Motion for Summary Disposition of Utah Contention L Geotechnical (December 30, 2000), State of Utah Response to the Applicant's Motion for Summary Disposition of Utah Contention L Geotechnical (January 30, 2001), NRC Staff's Response to Applicant's Motion for Summary Disposition of Utah Contention L Geotechnical (January 30, 2001); State of Utah's Reply to NRC Staff's Response to the Applicant's Motion for Summary Disposition of Utah Contention L Geotechnical (February 9, 2001) . This contention challenges PFS's seismic hazard analysis, identification of capable faults, soils evaluations, and surface/soil interaction. The issues raised in this contention directly impact the design of the proposed PFS facility to withstand seismic and geotechnical impacts. A facility that is not adequately designed for the geotechnical and seismic conditions may pose disparate impacts on nearby Skull Valley Band residents or employees. Also, the Commission recently remanded the State's challenge to PFS's seismic exemption request (amended Contention L) back to the Board for adjudication. See CLI0112. PFS requested an exemption from the NRC requirements to perform a seismic hazard analysis using probable not worst case ground motions as currently required. The probabilistic ground motions requested, and approved by the Staff, are substantially lower than the PFS's estimated worst case ground motion. This is critical because the Board will require PFS to design and construct the facility to withstand either the worst case ground motion or a much lower standard. A facility that fails to withstand the ground motion during an earthquake may pose disparate impacts on nearby Skull Valley Band residents or employees. Contention Utah O - hydrology - As admitted this contention addresses surface and ground water protection and water rights. See LBP9807. Failure to adequately protect surface and ground water and water rights may pose disparate impacts on Skull Valley Band members or minority and low income residents or employees on the Reservation. Utah Contention V - Transportation - As admitted, Contention V challenges the PFS and the DEIS's evaluation of transportation impacts. A motion for summary disposition is currently pending before the Board. See Applicants Motion for Summary Disposition of Utah Contention V Transportation (April 16, 2001),

State of Utah Response to Applicant's Motion for Summary Disposition of Utah Contention V Transportation (May 15, 2001), NRC Staff's Response to the Applicant's Motion for Summary Disposition of Utah Contention V Transportation (May 15, 2001), State of Utah's Reply to NRC Staff's Response to the Applicant's Motion for Summary Disposition of Utah Contention V Transportation (May 25, 2001). All the shipments will pass in the vicinity of the Village and the facility. The failure to adequately assess and mitigate potential transportation impacts may have disparate impacts to Skull Valley Band members and other minority or low income residents or employees. Utah Contention W - Flooding at Rowley Junction - As admitted, Contention W challenges PFS's failure to assess the environmental impacts of flooding at the intermodal transfer station. See LBP9807. Because the intermodal transfer station will be located near the junction for only one of two access routes to the Reservation, the failure to adequately assess and mitigate potential transportation impacts may have disparate impacts to Skull Valley Band members and other minority or low income residents or employees. It may also adversely impact employees working at the intermodal facility. Utah Contention Z - No Action - As admitted, Contention Z challenges the no action evaluation of impacts. A motion for summary disposition is currently pending before the Board. See Applicants Motion for Summary Disposition of Utah Contention Z No Action Alternative (February 14, 2001), State of Utah Response to the Applicant's Motion for Summary Disposition of Utah Contention Z (March 6, 2001), NRC Staff's Response to Applicant's Motion for Summary Disposition of Utah Contention Z No Action Alternative (March 6, 2001), State of Utah's Reply to NRC Staff's Response to the Applicant's Motion for Summary Disposition of Utah Contention Z (March 16, 2001). Because of the proximity of the Village and employees, the failure to adequately assess and mitigate potential transportation impacts may have disparate impacts to Skull Valley Band members and other minority or low income residents or employees.

Utah Contention AA - Other Alternatives - As admitted, Contention AA challenges PFS's and the DEIS's evaluation of alternative impacts. A motion for summary disposition is currently pending before the Board. See Applicants Motion for Summary Disposition of Utah Contention AA Range of Alternatives (April 18, 2001), State of Utah Response to Applicant's Motion for Summary Disposition of Utah Contention AA Range of Alternatives (May 15, 2001), NRC Staff's Response to the Applicant's Motion for Summary Disposition of Utah Contention AA Range of Alternatives (May 15, 2001), State of Utah's Reply to NRC Staff's Response to the Applicant's Motion for Summary Disposition of Utah Contention AA Range of Alternatives (May 25, 2001). Because of the proximity of the Village and employees, the failure to adequately assess and mitigate potential transportation impacts may have disparate impacts to Skull Valley Band members and other minority or low income residents or employees.

Contention Utah QQ - This contention is currently pending before the Board. See State of Utah's Request for Admission of Late filed Contention Utah QQ (Seismic Stability) (May 16, 2001), Applicant's Response to State of Utah's Request for Admission of Late filed Contention Utah QQ (May 30, 2001), NRC Staff's Response to State of Utah's Request for Admission of Late filed Contention Utah QQ (Seismic Stability) (May 30, 2001), State of Utah's Request to Modify the Bases of Late filed Contention Utah QQ in Response to Further Revised Calculations from the Applicant (June 19, 2001). This issue addresses various soil and structural design issues related to seismic events. The failure to adequately design the PFS facility to withstand the ground motion may pose disparate impacts on nearby Skull Valley Band residents or employees.

Contention Utah Security J - Based on SB81, this contention challenges PFS's claim that offsite law enforcement will be provided by Tooele County. The Board ruled that it would defer ruling on the admissibility of this contention pending the outcome of the PFS v. Leavitt lawsuit. See LPB0120. The availability of law enforcement to respond to incidents at the PFS facility

have significant impacts on Skull Valley Band members and other low income or minority residents or employees. Depending on how the contentions listed above are resolved, some of the effects presently identified in the DEIS and the SER may significantly change.

Facts Related to Impacts to Property Values:

49. PFS purported facts 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, & 40 (and any other) are hereby disputed, to the extent they purport to show, taken together or separately, that PFS' application, including the DEIS, adequately addresses all (or any) environmental justice issues with regard to impacts on property values because the DEIS fails to address the target population's value system and the fact that only Native Americans are permitted to live on the reservation and only their value system can have relevance with respect to factors involved in evaluating reservation property values (see Blackbear Dec. ¶ 400), also what is addressed is skimpy and based virtually exclusively on erroneous or misleading information, in reliance on the unsupported and unverified statements of Mr. Leon Bear (see Blackbear Dec. ¶¶ 393-400), and on the erroneous assumptions that: the tribe and other entities are receiving or will receive project funds (see Blackbear Dec. ¶¶ 53d, 328-340, 393-400).

50. Native Americans value their reservation land with a different value system, they consider it sacred and it is tied up with religious factors, so Native Americans primarily move to the reservation for spiritual and traditional lifestyle reasons (this is partially because most reservation land is not good for much else, but the facility will not change that very much, but it will make a big impact on the spiritual and traditional lifestyles reasons) (see Blackbear Dec. ¶¶ 399-401).

51. Also the value of the land in terms of the value of the crops and livestock produced on it will be reduced, as well as the area available for such production (see Blackbear Dec. ¶¶ 399-400).

52. Tribal members will likely not be moving to the reservation to work at the facility (Leon Bear Deposition transcript pp. 115-120).

53. None of mr. Bezdek's cases are comparable. The cases he cites employ 300 to 800 people per site. Owl Creek Wyoming claims it will create 150 jobs during the storage monitoring stage. Exhibit 2 at 35. PFS offers 42 jobs. Bezdek claims property values influenced by 1) quality of schools, 2) public services and infrastructure, 3) jobs and income, and 4) quality of real estate. Exhibit 2 at 5. These factors not readily applicable to the reservation and different Indian values. He relies on PFS money which SB81 invalidates. He makes good sounding statements until you realize there is only 42 jobs available, for example Mr. Bezdek claims housing booms occurred at other nuclear facilities. Its not applicable here. Individuals are not going to buy houses for an 18 month construction period. Forty-two jobs will not create a housing boom.

Respectfully submitted,

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Attorney for OGD

June 28, 2001

DECLARATION
OF
SAMMY BLACKBEAR

JUNE 28, 2001

Sammy Blackbear submits this Declaration for the express purpose of supporting an in process federal agency proceeding to the end that it will consider and investigate the matters reported herein. This Declaration is submitted under an expectation of confidentiality, especially with respect to the Exhibits.

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JUNE 28, 2001 DECLARATION OF SAMMY BLACKBEAR

Chairman Sammy Blackbear deposes, declares and states:

Personal Information and Background

1. I am over 18 years old and am competent to testify to the matters set forth herein.
2. I am a member of the Skull Valley Band of Goshute Indians (referred to as "Band" or "Tribe" or "Tribal" herein).
3. The Band is a Bureau of Indian Affairs (referred to as "BIA" herein) supervised, federally recognized, Indian tribe.
4. I have been actively involved in the affairs of the Band since becoming an adult member in 1982.
5. I personally know most of the members of the Band and I am related to many of them.
6. I am currently serving as Tribal Chairman, having been duly elected as Vice Chairman in the last legitimate election and having succeeded the elected Chairman when he died in office.
7. I know and understand the Band and its history and traditions.

Skull Valley Reservation

8. My three children and I now live, and at all relevant times since the Spring of 1996, have lived on the Band's Skull Valley Reservation.
9. The Band's Skull Valley Reservation is held in trust for the Band and its members by the United States government.

Official Traditional Form of Government, General Council, and Meetings

10. Over the years, our Tribe has always had a traditional form of government as our official government and conducted its business in a traditional manner in accordance with the rules of this official government.

11. This traditional form of government is still our official government, although its rules are being violated, since Leon Bear and his co-conspirators began seizing unlawful control.

12. Officially, all Tribal business has been and must be conducted by our General Council, which is comprised of all adult Tribal members eighteen years or older. There are about 120 members with just over half being adults.

13. The General Council is our sole official governmental body.

14. I am a voting member of the General Council.

15. I have attended General Council meetings most of my life.

16. I have personally attended all meetings of the General Council during all times relevant to these matters.

17. Leon Bear and some of his co-conspirators have normally sent me notices of what they call General Council meetings, usually twice each year, for all relevant years since they have unlawfully seized control of our Tribe (see Exhibit "A").

18. We have no authorized separately empowered administrative branch.

19. Our three Tribal officers include a Chairperson, Vice Chairperson and Secretary who are elected to four-year terms. These Tribal officers, sometimes referred to as an Executive Committee, Business Committee or Tribal Council (referred to as "Exective Unit" herein), have no general authority, other than to carry out the specific instructions of the General Council.

20. We have no judicial branch or court, but have from time-to-time contracted for judicial services, predominantly or solely for tax issues.

20. Officially, in accordance with the rules of our traditional form of government, all Tribal business must be conducted at a duly called General Council meeting where a quorum of the General Council members can discuss, debate and vote on matters of Tribal business.

21. The discussion, debate and voting by a quorum on matters of Tribal business at properly noticed General Council meetings are all vital and essential parts of our official Tribal government.

22. By operation of the rules of our official Tribal government, once the General Council has made a decision that requires implementation, a formal, written resolution is prepared and signed by General Council members present and the Tribal officers are specifically instructed and authorized to implement the resolution.

23. Since taking over the Tribe, the Leon Bear conspiracy has made numerous unauthorized and unapproved "changes" in how so called "Tribal meetings" are conducted, in direct and blatant violation of the rules of our official Tribal government and not in accordance with how our Tribal meetings have been and must be officially conducted.

24. Such violative and conspiracy controlled meetings are unlawful and of no legitimate effect.

25. By means of these violative and unlawful conspiracy controlled meetings, Leon Bear and his co-conspirators have imposed a pattern of corruption, oppression and abuse, as discussed below and in other sections of my Declaration.

26. BIA Superintendent David Allison, or someone from his office, usually attends these

meetings but when other General Council members or I ask Superintendent Allison or other BIA personnel to help, they normally refuse.

Official Form of Tribal Elections

25. Officially, our elections for Tribal officers are conducted by the Tribal Chairperson and Vice Chairperson.

26. Officially, our Chairperson and Vice Chairperson are elected to four-year terms.

27. Officially, these elections are held together every four years.

28. Traditionally our Secretary used to be elected to a two year term but recently to a four year term, and is elected every four years on a staggered basis from the other officers.

29. Traditionally and officially, an election requires a majority of all General Council members to be present at all times.

30. Traditionally and officially, all General Council members present are allowed to nominate candidates, second nominations, speak for or against any candidates, and vote or decline to vote.

31. Traditionally and officially, any General Council member may be nominated for any office.

32. There has never been a traditional or official requirement that a General Council member must be present at, or participate in, an election in order to be nominated or elected for any office.

33. Officially, the General Council votes by secret, written ballots.

34. Officially, the person with the most votes is elected.

35. Officially, any General Council member may see the ballots after the ballots have been counted.

36. Officially, only properly elected Tribal officers have any authority to conduct Tribal

business, collect or spend Tribal money, sign agreements for the Tribe, or otherwise speak or act for the Tribe, and then only as specifically directed and authorized by the General Council.

27. Any reference herein to Leon Bear or other members of his conspiracy as "Tribal officers" is meant to refer to them in their purported capacity as such officers and should not be deemed as any acknowledgment of such official status.

Systematic, Longstanding, Blatant Pattern of Corruption, Oppression and Abuse

28. Leon Bear, Mary Allen and Rex Allen, as purported Tribal leaders, and other Indian and non-Indian co-conspirators, including Danny Quintana, have engaged in a systematic, longstanding, blatant pattern of corruption, oppression and abuse against me, my family and other Tribal members who would not support them, their conspiracy or their improper and illegal actions.

29. This systematic, longstanding, blatant pattern of corruption, oppression and abuse includes fundamental and serious criminal and civil violations of my Constitutional rights and the Indian Civil Rights Act, as well as serious criminal violations of the Skull Valley Band of Goshute Indians, Tribal Code, Title 1, Tribal Offenses, adopted on April 20, 1991 ("Tribal Code" herein) (see Exhibit "B").

30. As a part of this systematic, longstanding, blatant pattern of corruption, oppression and abuse, Leon Bear, Mary Allen and Rex Allen, as purported Tribal leaders, and other Indian and non-Indian co-conspirators, including Danny Quintana, have engaged in a series of what they call "changes" to the way they conduct business, but which are brazen and malfeasant violations of the requirements and protections of our official Tribal government.

a. These unauthorized "changes" have not been approved by our General Council.

b. These unauthorized and unapproved “changes” constitute a usurpation of power by Leon Bear and his co-conspirators.

c. By use of these unauthorized and unapproved “changes,” Leon Bear ignores our official Tribal government, ignores our General Council, ignores the requirements and protections of our official Tribal government, and overcomes our ability to protect ourselves from Leon Bear and his co-conspirators.

d. Using these unauthorized and unapproved “changes,” Leon Bear and his co-conspirators have violated our Civil rights by taking away our money, our right to self government, peaceful assembly, free speech, due process, and equal treatment.

e. Being violations of our official Tribal governmental rules, these “changes” are unlawful and of no legitimate effect.

31. As a direct result of this systematic, longstanding, blatant pattern of corruption, oppression and abuse, my family, these other Tribal members and I have been wrongfully and illegally deprived of many thousands of dollars in BIA supervised money derived from our Tribal trust lands, and our Band has lost hundreds of thousands, if not millions, of dollars derived from our Tribal trust lands.

32. As a direct result of this systematic, longstanding, blatant pattern of corruption, oppression and abuse, my family, other Tribal members and I have been wrongfully and illegally deprived of thousands of dollars in federal money and our Band has lost thousands if not hundreds of thousands of dollars in federal money.

33. Numerous instances of such a systematic, longstanding, blatant pattern of corruption, oppression and abuse have occurred in the presence of BIA Superintendent David Allison and

other BIA officials.

34. I have discussed this systematic, longstanding, blatant pattern of corruption, oppression and abuse with Superintendent Allison and other BIA officials over the years, to no avail.

35. Superintendent Allison told us that he has reported our accusations of wrongdoing to the Federal Bureau of Investigation and the Inspector General, but to my knowledge nothing has come of those reports.

36. This systematic, longstanding, blatant pattern of corruption, oppression and abuse has been reported by our attorneys and others to the U.S. Attorney's Office and the Solicitor's Office in Salt Lake City, to no avail.

46. This systematic, longstanding, blatant pattern of corruption, oppression and abuse has been reported to the Inspector General of the U.S. Department of the Interior in Washington, D.C., but to my knowledge nothing has come of that report.

37. Each of these entities has promised to investigate this systematic, longstanding, blatant pattern of corruption, oppression and abuse, but nothing is ever investigated or resolved.

38. This systematic, longstanding, blatant pattern of corruption, oppression and abuse is still ongoing.

39. My family, other Tribal members and I have suffered, and continue to suffer, great and irreparable injury and harm as a direct result of this systematic, longstanding, blatant pattern of corruption, oppression and abuse.

40. The statements contained in this Declaration illustrate some, but not all, of the numerous acts Leon Bear, Danny Quintana, Mary Allen, Rex Allen and their Indian and non-Indian co-conspirators have engaged in as part of this systematic, longstanding, blatant pattern of

corruption, oppression and abuse against me, my family and other Tribal members who do not support them, their conspiracy or their improper and illegal actions.

Leon Bear Conspiracy Unlawfully Seizes Control of Tribal Funds

41. Since unlawfully taking over our Tribe, Leon Bear and his co-conspirators have violated the rules, requirements, and protections of our government in how Tribal money is handled, controlled and accounted for.

42. Under our official Tribal government, the General Council has always been and is now solely responsible for the control of all Tribal moneys.

43. Officially, the General Council exercises this responsibility and control through duly elected Tribal officers who are the signers on Tribal bank accounts.

44. Officially, Tribal officers are accountable to the General Council for all Tribal funds and property.

45. Officially, and in the past, at the beginning of a new year, Tribal officers have presented, and must present, a written statement of available cash for the upcoming fiscal year (see Exhibit "C"). Leon Bear and his co-conspirators no longer report this information to the General Council.

46. Officially, and in the past, at the beginning of a new year, Tribal officers have presented, and must present, a written proposed budget for the coming year, for the General Council to discuss and approve (see Exhibit "D").

47. Officially, and in the past, at the end of a year, Tribal officers have presented, and must present, to the General Council both the previously approved written budget for that year and a written accounting of the money actually spent for each budget category so the General Council

could discuss and ratify or disapprove any changes in spending from what was budgeted (see Exhibit "E").

48. Officially, and in the past, at the end of a year, Tribal officers have presented, and must present, to the General Council a complete budget package sent to the Tribal leaders by the BIA Superintendent (see Exhibit "F").

49. This accountability no longer exists, since the Leon Bear conspiracy has unlawfully seized control of Tribal money and property.

50. Leon Bear, while claiming to act as Tribal Chairperson, no longer provides the General Council with past or proposed budgets, and no longer allows any vote on any budget.

51. Leon Bear now just states in broad, general terms, at what he calls General Council meetings, what he proposes to spend Tribal money on, without providing amounts or details.

52. Sometimes, he says he did not have time to photocopy a budget for the General Council; other times, he does not even bother making that excuse.

Examples of Unauthorized and Unaccounted for Expenditures of Tribal Funds

53. Some of the major amounts and sources of money (adding up to millions of dollars) that Leon Bear and his co-conspirators have failed and refused to account to the General Council for since they have unlawfully seized unlawful control of our Tribal funds are:

a. **MRS Grants:** Leon Bear and his co-conspirators say they have, on behalf of the Tribe, applied for and received hundreds of thousands of dollars in grants from the federal government in connection with the Monitored Retrievable Storage program (referred to as "MRS" herein). Despite numerous requests from General Council members, Leon Bear and his co-conspirators have failed and refused to ever account to the General Council for those funds. All we know is

Leon Bear, his non-Indian attorney Danny Quintana and other co-conspirators have traveled all over the world with that money, and they have given us two video tapes of their travels.

b. **Tooele County Tax Rebate:** Danny Quintana, Leon Bear and their co-conspirators received a large property tax rebate check from Tooele County on behalf of the Tribe. Despite numerous requests from General Council members, Leon Bear and his co-conspirators have failed and refused to ever account to the General Council for those funds. Finally at one meeting, we pressed Leon Bear for answers on what had happened to the money and he said most of it was still in Tribal bank accounts. At the next meeting, about six months later, when we again pressed Leon Bear for details, he told us the money was “gone,” perhaps invested in a waste recycling operation that went broke.

c. **Waste Recycling Facility:** Leon Bear and his co-conspirators said they invested almost one million dollars into a waste recycling operation recommended by his “Tribal” attorney Danny Quintana. Danny Quintana was an owner investor in that project as well. We were told that facility went broke. The description was in the broadest terms and the General Council has never been given adequate information on such a project and never voted to approve such an investment. An outside consultant that looked into the investment and bankruptcy advised we should hold Leon Bear and Danny Quintana financially responsible for this fiasco.

d. **PFS Millions:** Leon Bear and his co-conspirators have stated that millions of dollars have been received from Private Fuel Storage, LLC (referred to as “PFS” herein). None of the money has ever shown up in the “Tribal budget”. Despite numerous requests from General Council members, Leon Bear and his co-conspirators have failed and refused to ever account to the General Council for those funds. Leon Bear initially told us that all of the PFS money was his

personal money, which he was sharing with his supporters, then at another meeting he said it was Tribal money, but it has never actually reached the Tribe. Leon Bear keeps changing his story about the PFS money, going back and forth in this manner, but the funds have been diverted to his personal and political use, and the Tribe has not received any of it. Tribal members have received checks identified as PFS money (see Exhibit "G") from Leon Bear, if they will vote as he dictates and if they will support the PFS project. Sometimes Leon Bear has reported he has used PFS money to purchase several expensive new "Tribal" vehicles and to fund a million dollar agricultural project and other projects, all without Tribal consent or authority. These new "Tribal" vehicles are parked at Leon Bear's fancy house and are only driven by Leon Bear and his family.

e. **Rocket Test Facility:** Leon Bear and his co-conspirators no longer account to the General Council for revenues from the rocket test facility. Recently, according to media coverage, when the facility lease was scheduled for renewal, Leon Bear and his non-Indian attorney Danny Quintana and their co-conspirators insisted on a renewal lease payment four to five times higher than the previous lease payment. The lessee refused to pay this outlandishly higher amount and the facility is now vacant, generating no income for the Tribe whatsoever. Neither Leon Bear, Danny Quintana nor any of their co-conspirators ever sought any direction or authorization from the General Council about renewing the lease, let alone at what lease payment. Leon Bear has recently announced that he plans to dismantle and scrap this facility next summer, again without General Council input or authorization. Based on the Draft Environmental Impact Statement, it is obvious that Leon Bear, Danny Quintana and their co-conspirators have taken these unauthorized actions because the facility is an obstacle to the PFS project, but the General

Council has never had an opportunity to discuss this, and Leon Bear refuses to answer questions about his actions.

f. **Other Investments:** Leon Bear has told the General Council that he has invested substantial amounts of Tribal money in ventures, projects and in other places. But when General Council members ask for specific details of those investments, Leon Bear refuses to provide any adequate answers. The General Council has never authorized any such undisclosed investments. Leon Bear and his co-conspirators no longer account to the General Council about investments of Tribal funds.

g. **HUD Grants:** Our Tribe receives annual grants from HUD. While Leon Bear so testified to the Utah State Legislature (see Exhibit J, page 13 from line 14), when directly asked about such housing grants by his opponents, Leon Bear and his co-conspirators have denied receiving housing grants from HUD or any other agency, and say there is no grant money available. Leon Bear and his supporters have used these grants to make major and extensive repairs and renovations to homes of members who support Leon Bear and the PFS project but none of it has been made available to those who oppose Leon Bear or the PFS project. When I have asked about the availability of housing money, Leon Bear has denied that there any such funds available. The General Council has never authorized such use of these grants and has never been informed about them. Leon Bear and his co-conspirators have not and do not account to the General Council about such grants provided to the Tribe.

h. **Trust Funds, Revenue Sharing and Other Cash:** When the Leon Bear regime unlawfully took over control of our Tribal finances, we had hundreds of thousands of dollars in federal trust fund accounts, substantial annual interest income, and significant amounts in Tribal

bank accounts. We also received revenue sharing funds. Our Tribal leaders have traditionally and historically reported the status of these accounts and funds to the General Council annually, as is required by our official Tribal government (see Exhibit C). Leon Bear and his co-conspirators no longer report this information to the General Council, in violation of these requirements, so we have no idea on the status of these Tribal funds.

i. **Sheep Settlement:** In 1968, more than 6,000 sheep were killed in Skull Valley and buried on our Reservation when a nerve gas experiment at the Dugway Proving Ground went awry. Leon Bear has said he recently negotiated and received a large settlement for the Tribe as a result of these sheep having been killed and buried on our Reservation, and for studies concerning cleanup and restoration. We understand that this money came from the federal government. Leon Bear has never sought any direction or authorization from the General Council (1) to settle this matter, (2) for what amount it should be settled, or (3) what should be done with the proceeds of any settlement or other money. Likewise, Leon Bear has never offered to pay any of this "settlement" money to any Goshute family who actually owned any of those sheep.

j. **Tribal Medical Van:** Leon Bear recently announced he had used Tribal money to purchase a new minivan for the Tribe to be used to transport members to and from medical appointments and treatments. Then, a year or so later, he announced he had given that van to one of his supporters. Leon Bear refused to provide specific details of these unauthorized transactions to the General Council. The General Council never authorized the purchase of that van and certainly never authorized its disposal by gift or otherwise to one of Leon Bear's supporters or anyone else. This is one more example of the Leon Bear conspiracy unilaterally making Tribal decisions that should be made by the General Council.

k. **Danny Quintana Payments:** Some years ago, Leon Bear and some of his co-conspirators announced that they had retained one of Leon Bear's friends, Danny Quintana, as the Tribal attorney. The General Council has never asked the BIA to approve such a contract, and the BIA has never approved any such contract, notwithstanding controlling federal law requiring BIA approval of all contracts between tribes and attorneys. Since then, the one issue that virtually all of the General Council has agreed on is firing Danny Quintana. There have been numerous votes at numerous meetings to fire Danny Quintana, always unanimous or nearly so, but each time Leon Bear refuses and says Danny Quintana stays. Danny Quintana has been present at some of these votes to fire him, but he just keeps billing the Tribe anyway. At one such meeting, Danny Quintana announced to the General Council that he (Danny Quintana) owned the nuclear waste storage project and if he (Danny Quintana) was fired he (Danny Quintana) would take the project and the millions of dollars it would generate with him (Danny Quintana). The General Council voted to fire him anyway. The Leon Bear conspiracy has paid Danny Quintana unauthorized retainers, hourly fees and other sums, has taken him all over the world at Tribal expense (probably paying him his hourly fee to travel), but to add insult to injury, Leon Bear has announced that Danny Quintana is being paid one-third of everything the Tribe receives from PFS. The General Council has never approved all of these payments and perks for Danny Quintana, the General Council fired him, and of course, Leon Bear and his co-conspirators refuse to tell the General Council just how much Danny Quintana is being paid. This is in violation of our official Tribal government which requires such information as part of the budget, to be approved by the General Council. Before Leon Bear seized power, budgets, conforming to the requirements, did have the amount we paid Tribal attorneys (see Exhibit B).

l. Salt Lake City Office: Traditionally, before Leon Bear and his co-conspirators unlawfully seized control, the Tribe maintained offices on the Reservation. General Council members and others had full access to Tribal leaders and records right on the Reservation. Then, a few years ago, Leon Bear announced, without seeking authorization to do so, that he had rented Tribal offices in Salt Lake City. The General Council never authorized any Tribal offices in Salt Lake City or anywhere else off the Reservation, does not know how much Tribal money has been spent or is being spent on such offices, so the Tribe should not be responsible for these offices.

m. Tribal Jobs and Employment: Officially, the General Council must make all decisions concerning Tribal jobs and employment. All General Council members knew in the past and must know now who was and is working for the Tribe and how much each employee was being paid and is being paid. Official budgets have and must contain this information. Since they have seized unlawful control, Leon Bear and his co-conspirators make all of those decisions and decide who will work for the Tribe and how much they will be paid, without seeking authorization to do so and without reporting to the General Council. Jobs are now unlawfully based on members' support for Leon Bear and the PFS project.

n. Tribal Officer Compensation: Officially, the General Council must make all decisions concerning Tribal officer compensation. All General Council members knew in the past and must know now how much each Tribal officer was and is being paid. Official budgets have and must contain this information. Tribal officers have been authorized to receive only nominal compensation for the time they serve the Tribe as Tribal officers, and a reasonable expense reimbursement. Official, traditional budgets have contain this information (see Exhibit B). Since they have seized unlawful control, Leon Bear and his co-conspirators make all of those decisions

and decide how much purported Tribal officers will be paid, without seeking authorization to do so and without reporting to the General Council. Purported Tribal officers now tell other General Council members that they are “set for life” as a result of their position and support for the PFS project, but provide no details when asked to do so. Purported Tribal officers and their extended families now travel all over the world at Tribal expense, but refuse to account to the General Council for these trips. These purported Tribal officers are unemployed except for their purported positions as Tribal officers (and whatever PFS pays them to move the PFS project along and muster Tribal support for that project).

o. **Dividends and Distributions:** Officially, the General Council must make all decisions concerning timing and the amount of all distributions of dividends and other Tribal money and so instruct Tribal officers. Tribal Dividends must be and have been equal for all Tribal members. The Tribal officers must report, and have historically reported, back to the General Council on their actions once the authorized distributions are and were made. Traditional and official budgets must contain and have historically contained this information. Since they seized unlawful control Leon Bear and his co-conspirators make all of those decisions and distribute what they call dividends and other moneys to Tribal members, without seeking authorization to do so and without reporting to the General Council on such distributions. Such distributions are no longer equal, but are unlawfully based on members’ support for, or opposition to, Leon Bear and the PFS project.

p. **Phantom Corporation:** I have read in the newspaper and heard from other sources that Leon Bear claims he has formed some sort of Tribal corporation that allows him to pay some Tribal members more than other Tribal members. Adequate information has never been made

available to the General Council, and at no time has such a corporation been considered, let alone voted on or approved. Any Tribal money run through such a corporation and any distributions from such a corporation would be unlawfully as just another method of unequally distributing Tribal money based on members' support for, or opposition to, Leon Bear and the PFS project. Please see page 61 For more information on this "phantom corporation."

q. **Unlawful Fines and Unlawfully Withheld Dividends and Distributions:** Leon Bear and his co-conspirators have withheld thousands of dollars from dividend payments to members who oppose them. They claim they are collecting fines and damages and other (unlawful) types of assessments from opponents. They have also withheld thousands of dollars in dividends and other distributions from the children and grandchildren of their opponents. In some instances these payments are restored after missing one or more payments, but without making up the missed payments and without explanation. In other instances the interrupted payments are never restored, again without explanation. No accounting has ever been made of this unlawfully withheld money, either to those whom it has been unlawfully taken from, or to the General Council.

62. This is in violation to how our official Tribal government requires that we handle, control and account for Tribal money, and because these unauthorized "changes in procedure" are unlawful and illegitimate, all of the Leon Bear budgets and expenditures are not official and are not binding on the Band.

54. The General Council has never debated, discussed, approved or ratified any such "changes in procedure" in how Tribal money and property is handled, controlled and accounted for. Leon Bear and his co-conspirators have unilaterally inflicted these unlawful violations on our

Tribe.

55. Once Leon Bear and his co-conspirators had unlawfully seized control of Tribal money, they used this unauthorized, unlawful control to facilitate their ongoing efforts to seized unlawful control of all Tribal functions and thus the Tribe itself.

56. The unauthorized, unlawful secrecy concerning Tribal money, dividends and distributions allowed Leon Bear and his co-conspirators to embezzle, misappropriate and steal massive amounts of Tribal money for themselves, and allowed them, acting as agents of PFS, to use Tribal money to bribe General Council members to join the conspiracy and support Leon Bear and the PFS project.

57. As a direct result, my family, other Tribal members and I have been wrongfully and illegally deprived of many thousands of dollars in BIA supervised money derived from our Tribal trust lands, and our Band has lost hundreds of thousands, if not millions, of dollars in BIA supervised money derived from our Tribal trust lands.

58. Leon Bear's unauthorized, unlawful seizure of control of Tribal money has deprived me, my family and other Tribal members of our rights as members of the Band and as Americans, in violation of our official Tribal government, Tribal Code and U.S. law, and continue to do so.

59. We have suffered great and irreparable injury and harm and continue to suffer great and irreparable injury and harm as a direct result of these unauthorized, wrongful and unlawful acts.

Leon Bear Conspiracy's Violations of Official Tribal Quorum Requirements

60. One of the unlawful violations of our official Tribal government that Leon Bear and his co-conspirators have unilaterally imposed, is the purported abolishment of the need for a quorum at General Council and Exective Unit meetings.

61. Since our General Council is our only governing body, it must conduct all Tribal business, although it may delegate specific actions to the elected Tribal leaders, acting as a unit, who remain accountable to the General Council for those delegated actions.

62. Traditionally and officially, a majority of the General Council members form a quorum which must be present at a duly noticed General Council meeting in order to conduct any Tribal business (see Exhibit "H").

63. Likewise the Executive Unit must act with a quorum of elected Tribal leaders present (see Exhibit "I").

64. Traditionally and officially, such a quorum must be in attendance at all times during all General Council or Executive Unit meetings.

65. Traditionally and officially, when a quorum was not present at a General Council meeting, the Tribal leaders (and sometimes even the BIA) would remind everyone that since a quorum was either not originally present or no longer present, no Tribal business could be conducted.

66. Traditionally and officially, when a quorum is not originally present or no longer present at a General Council meeting, Tribal leadership must close the meeting.

67. Traditionally and officially, when a quorum is not originally present or no longer present at a Executive Unit meeting, Tribal leadership must close the meeting.

68. Leon Bear says the need for a quorum at any General Council or Executive Unit meeting was abolished ten years ago "before [he] was elected into office" (see Exhibit "J", page 4, from line 15 and page 15 from line 11).ccc

69. Leon Bear was first elected into office long before ten years ago (see Exhibit "K"), and the need for a quorum has been referred to in Tribal documents as recently as 1997 (see Exhibit

“L”).

70. The General Council has never voted to abolish the need for a quorum at any General Council meeting where a quorum was present. Our official government requires that the current rules must be followed in enacting new rules. Leon Bear and his co-conspirators violated this requirement in purportedly abolishing the need for a quorum.

71. Leon Bear has stated that since he doesn't need a quorum to conduct Tribal business, he can decide Tribal matters by himself (see Exhibit J, page 15 from line 22). Leon Bear acts as if he believes he does not even need a meeting; he can just make decisions for the Tribe himself, without the counterbalance of the General Council, or even other elected officials.

72. Conducting purported Tribal business without meetings and without a quorum of either the General Council or the Executive Unit is in effect a dictatorship, as described elsewhere in my Declaration. Such actions are based on violations of our Tribal government and are unlawful. All so called Tribal business allegedly conducted where a quorum was not present is not official and is not binding on the Band.

73. Leon Bear's unlawful dictatorial actions, including his insistence that he can conduct Tribal business without a quorum or even without a formal meeting, have deprived me, my family and other Tribal members of our rights as members of the Band and as Americans, in violation of our official Tribal government, Tribal Code, and U.S. law, and continue to do so.

74. We have suffered great and irreparable injury and harm and continue to suffer great and irreparable injury and harm as a direct result of these unauthorized, wrongful and unlawful acts.

Leon Bear Conspiracy's Unauthorized and Invalid Purported Tribal Resolutions

75. One of the group of violations of our official Tribal government that Leon Bear and his

co-conspirators have unilaterally imposed concerns Tribal Resolutions.

76. Under the regime of Leon Bear and his co-conspirators, the unauthorized and invalid documents they call "Tribal resolutions" come into existence in a manner that is so different and repugnant to the requirements of our official Tribal government as to make Leon Bear's "resolutions" not only unauthorized and invalid but totally different types of documents than our historic, official, traditional, authorized and valid Tribal Resolutions.

Official Tribal Resolutions

77. Our official Tribal government must conduct and memorialize Tribal business with Tribal Resolutions.

78. Officially, and in the past, a Tribal leader or General Council member would introduce a proposed resolution at a duly noticed General Council meeting where a quorum is present.

79. Officially, the General Council must hear, consider, discuss and debate the proposed resolution, and then vote on it at the meeting.

80. Officially, the resolution passes if the resolution receives the vote of the majority of the General Council members present at the duly noticed General Council meeting with a quorum in attendance.

81. Officially, if a resolution passes a certification is then placed at the end of the resolution indicating the date of the meeting, how many General Council members were present, how many voted for and against the resolution and then at least the voting General Council members in favor, and sometimes the members opposed, would sign the resolution, as would the certifying Tribal officer (see Exhibit "M").

82. We have traditionally and officially dealt with Tribal Resolutions in this manner so that

anyone reading one of our resolutions could verify all of the important details in order to assure themselves that the resolution was official, that it met all of our official Tribal governmental requirements and that it was proper and, authentic.

Invalid, Unofficial, Unauthorized, Unlawful Leon Bear Conspiracy “Resolutions”

83. One of the types of violations of our official traditional Tribal government Leon Bear and his co-conspirators have perpetrated since they unlawfully took over our Tribe is unauthorized and invalid documents he calls “Tribal Resolutions” which are created using a variety of unofficial and unauthorized methods:

a. **Unofficial and unauthorized “resolutions” without discussion or vote:** Some of the Leon Bear conspiracy “resolutions” are introduced at meetings Leon Bear calls General Council meetings, notwithstanding there is no quorum present. Most of these “resolutions” are not read to those present, no copies are ever circulated to those present at the meeting, and more often than not the topic of such “resolutions” is not even announced. Leon Bear simply states that there are some “resolutions” on a table in front of Leon Bear for General Council members to sign. There is no discussion, debate or vote on any of these “resolutions.”

b. **Unofficial and unauthorized gathered signatures:** Both before the meeting date and after the meeting is over, Leon Bear and some of his co-conspirators take these “resolutions” to General Council members who were not at the meeting and asks them to sign them (see Exhibit J at page 4 from line 23). Some of these signatures are gathered hundreds of miles away from the Reservation, weeks, months and even years after the meeting. There is no differentiation of these “gathered” signatures from the signatures of those General Council members actually present at the meeting.

c. **Unofficial and unauthorized post adjournment meeting “resolutions”:** Leon Bear and his co-conspirators have other “resolutions” that are presented at “private” meetings that are convened after the noticed meeting is adjourned and all but a few of Leon Bear’s co-conspirators and supporters have left the Tribal Center. Once everyone else has left, Leon Bear states he has “forgotten” some “resolutions” and reconvenes his meeting, with only a handful present, and circulates his “Tribal Resolutions” among his co-conspirators and supporters for signatures. They then take these “resolutions” from house to house gathering additional signatures. Neither my family, other General Council members opposed to Leon Bear, nor I ever have an opportunity to even know of the existence of most of these “resolutions,” let alone see them or read them.

d. **Unofficial and unauthorized private meeting “resolutions”:** Leon Bear and his co-conspirators have other “resolutions” that are presented at other “private” meetings with only Leon Bear’s co-conspirators and supporters. No one else is notified of, or invited to, these private meetings. Neither my family, other General Council members opposed to Leon Bear, nor I ever have an opportunity to even know of the existence of most of these “resolutions,” let alone see them or read them.

e. **Unofficial and unauthorized “no meeting” “resolutions”:** Leon Bear and his co-conspirators have other “resolutions” that are never presented at any meeting. They just take them from house to house gathering signatures from their co-conspirators and supporters so that neither my family, other General Council members opposed to Leon Bear nor I ever have a reasonable opportunity to even know of their existence, let alone see them or read them.

84. **Unofficial and unauthorized new form of Leon Bear “resolution”:** These unauthorized Leon Bear “resolutions” do **not** have the signatures of those opposed to them or any

of the other information our resolutions have traditionally and officially contained that would facilitate the detection of the very types of fraud that is going on now (see Exhibit “N”). These unauthorized Leon Bear conspiracy “resolutions” **do** have the signatures of General Council members that were not even present at the meeting where the “resolution” was supposedly passed. They also have signatures from some who were present at the original meeting and declined to sign then, but who were later convinced to sign weeks, months or even years after the meeting date where the “resolution” was supposedly “approved.”

85. In many cases this new “support” and these new signatures are forthcoming under conditions which, as alleged in other parts of my Declaration, amount to extortion and bribery.

86. The General Council has never debated, discussed, approved or ratified this “new policy” concerning purported Tribal Resolutions that Leon Bear and his co-conspirators have unlawfully inflicted on our Tribe.

87. This unauthorized “new policy” is in violation of our official Tribal government requirements for presenting, adopting, or preparing Tribal Resolutions.

88. Because these purported “resolutions” are based on unauthorized and unlawful violations, these Leon Bear conspiracy “resolutions” are not official, are not valid, and are not binding on the Band.

89. As a direct result of this “new policy” involving the Leon Bear conspiracy’s “resolutions” being unlawfully inflicted on the Tribe, Leon Bear and his co-conspirators have used their invalid “resolutions” to facilitate in their unlawful seizure of control of our Tribe.

90. As a direct result, my family, other Tribal members, and I have been wrongfully and illegally deprived of many thousands of dollars in BIA supervised money derived from our Tribal

trust lands, and our Band has lost hundreds of thousands, if not millions, of dollars in BIA supervised money derived from our Tribal trust lands.

91. Leon Bear's violations of our official, traditional Tribal government requirements for conducting and memorializing Tribal business with Tribal Resolutions, and unlawfully inflicting his invalid "resolutions" on the Band, has deprived me, my family and other Tribal members of our rights as members of the Band and as Americans, in violation of our official Tribal government, Tribal Code, and U.S. law, and continue to do so.

92. We have suffered great and irreparable injury and harm and continue to suffer great and irreparable injury and harm as a direct result of these unauthorized, wrongful and unlawful acts.

**Ultimate Usurpation of General Council Power and Authority
and
Establishment of Unilateral, One-man, All Powerful Dictatorship**

93. Leon Bear and his co-conspirators claim additional unauthorized, unlawful control, in further violation of the requirements of our official Tribal government, all directly aimed at usurping the power and authority of our General Council.

94. **Step One: Neutralize the BIA:** The Leon Bear conspiracy had to convince the General Council that the BIA endorsed and supported Leon Bear and his co-conspirators and would back them without question. Please see from page 35 for details on how this has been accomplished.

95. **Step Two: Unlawfully Abolish Quorum Requirements:** The Leon Bear conspiracy next had to unlawfully ignore, violate and abolish the checks and balances inherent in the official traditional form of Tribal resolutions and the system traditionally and officially used to adopt Tribal resolutions. Please see from page 22 for details on how this has been accomplished.

96. **Step Three: Unlawfully Change the Form and System of Tribal Resolutions:** The

Leon Bear conspiracy next had to unlawfully ignore, violate and abolish the checks and balances inherent in the official traditional form of Tribal resolutions and the system traditionally and officially used to adopt Tribal resolutions. Please see from page 24 for details on how this has been accomplished.

97. **Step Four: Unlawfully Seize Control of Tribal Funds:** Without absolute control of Tribal funds, Leon Bear and his co-conspirators could not have advanced his absolute control of the Tribe. Please see from page 12 for details on the Leon Bear conspiracy seizure of Tribal funds.

98. **Step Five: Unlawfully Establish a New Subservient Governing Body:** Leon Bear and his co-conspirators pronounced at one of their noticed meetings that the three Tribal officers would from then on form not just an executive unit, carrying out the mandates of the Tribal General Council, but a second governing body of the Tribe having independent authority, but remaining, at least ostensibly, accountable to the General Council.

99. **Step Six: Unlawfully Make New Governing Body Co-equal with General Council:** At a subsequent meeting, Leon Bear pronounced that from that time on, that second governing body, the Executive Unit, was a coequal governing body, equal in power with the General Council.

100. **Step Seven: Unlawfully Pronounce New Governing Body the Sole Governing Body:** At yet another subsequent meeting, Leon Bear pronounced that from that time on, that second governing body, the Executive Unit, was the sole governing body of the Tribe, and that all votes of the General Council were advisory votes only, and were non-binding on the “governing” body comprised of the Tribal officers.

101. **Step Eight: Apply Unlawful No Quorum Rule to New Unlawful Sole Governing**

Body: Finally, Leon Bear has stated that his “no quorum” rule applies to this second Tribal “governing” body, so he has absolute authority to act for the Tribe when his two other Tribal officers are not present. Leon Bear has publicly admitted that he has used this unilateral, one-man power many times.

102. According to the new, unauthorized and unlawful system Leon Bear and his co-conspirators claim to have enacted in violation of the requirements of our Tribal government, Leon Bear now has unilateral, one-man, all-powerful dictatorial power over the Tribe and all of its people, money and affairs.

103. This is not the way our Tribal affairs must be officially conducted.

104. The General Council has never debated, discussed, authorized, approved or ratified (and arguably could not so authorize or ratify) such dictatorial powers, Leon Bear simply pronounced them without any authority to do so.

105. As a direct result of these unauthorized powers Leon Bear and his co-conspirators unlawfully claim and exercise absolute control over our Tribe.

106. This is in direct violation of the most fundamental requirements of our official Tribal government.

107. Because these unauthorized and unlawful powers vesting all governmental control in Leon Bear are illegitimate, all of the purported Tribal business allegedly conducted by Leon Bear and his other purported Tribal officers and other co-conspirators using such purported powers was not valid or official and the results are not binding on the Band.

108. As a direct result of Leon Bear and his co-conspirators usurping dictatorial powers, in violation of our official Tribal government, my family, other Tribal members and I have been

wrongfully and illegally deprived of many thousands of dollars in BIA supervised money derived from our Tribal trust lands, and our Band has lost hundreds of thousands, if not millions, of dollars in BIA supervised money derived from our Tribal trust lands.

109. Leon Bear's unlawful exercise of dictatorial powers has deprived me, my family and other Tribal members of our rights as members of the Band and as Americans, in violation of our official Tribal government, Tribal Code, and U.S. law, and continue to do so.

110. We have suffered great and irreparable injury and harm and continue to suffer great and irreparable injury and harm as a direct result of these unauthorized, wrongful and unlawful acts.

Officially, Tribal Officers Are Not Empowered Individually

111. Our Tribe has traditionally, in accordance with the requirements of our official Tribal government, required that the Executive Unit act as a group. No individual elected officer is empowered to act alone, only as a part of the Executive Unit (see Exhibit "O", page 1, last paragraph), as directed by the General Council.

Manipulation and Misuse of Official Traditional Attendance Rolls

Traditional Official Attendance Rolls

112. Our Tribe has traditionally, in accordance with the requirements of our official Tribal government, had a formal attendance roll that all General Council members in attendance at a General Council meeting would sign (see Exhibit "P").

113. The sole purpose of our official attendance roll was to know and make a record of who was in attendance at Tribal meetings.

114. One of the unauthorized violations to the requirements of our official Tribal government Leon Bear and his co-conspirators have unilaterally imposed for meetings they conduct has to do

with the attendance roll.

Leon Bear Conspiracy Invents New Unauthorized and Unlawful Form of "Treason"

115. Contrary to our official Tribal government requirements, since Leon Bear and his co-conspirators have unlawfully seized control of our Tribe, and since other General Council members and I filed suit in federal court in 1998, Leon Bear has announced that it is treason for any General Council member to "speak against the Tribe or Tribal leaders" or to discuss Tribal affairs, including the PFS project and what is done at Tribal meetings, with non-Tribal members.

116. Leon Bear has specifically told me and others in my presence that this "new policy" is especially directed at our discussing these matters with attorneys-at-law that represent me and other General Council members opposed to the PFS project.

117. Leon Bear has made it a point to tell us that in particular he forbids us to discuss the PFS project, Tribal Resolutions, Tribal matters and what happens at Tribal meetings with attorneys who represent us against PFS.

118. Leon Bear has stated that the penalty for such "treason" is termination of our Tribal membership or such other lesser punishment as Leon Bear in his sole and unilateral discretion may decide to impose.

Unauthorized and Unlawful Leon Bear Conspiracy Attendance Roll

119. In violation of our official, traditional Tribal government, Leon Bear and some of his co-conspirators now place a statement at the top of the attendance roll for all meetings they conduct.

120. This new unauthorized statement basically states that by signing the attendance roll each General Council member promises to agree to and abide with Leon Bear's above described unauthorized "new policy" of secrecy, subject to the penalties Leon Bear may impose, including

termination of our Tribal membership.

121. No such unauthorized modification of the attendance role or this “new policy” was ever considered by the General Council, nor was it ever approved by the General Council.

122. By signing such a document we would be signing away some of our civil rights.

123. By forcing us to so sign, in order to participate in our General Council meetings and our Tribal Elections, Leon Bear and his co-conspirators violate Tribal Code, U.S. Laws, including the Indian Civil Rights Act, and deprive us of fundamental constitutional rights.

124. When other General Council members and I refuse to sign the attendance roll or abide with Leon Bear’s unauthorized “new policy,” Leon Bear and some of his co-conspirators refuse to let us speak, vote or otherwise participate in his meeting, and Leon Bear has asked the BIA Police present at such meetings to remove us from the meeting.

Example of Leon Bear Conspiracy use of Unauthorized and Unlawful Attendance Roll

125. When Leon Bear and his co-conspirators conducted purported “Tribal elections” on November 25, 2000, several General Council members present, including me, refused to sign the unauthorized attendance roll and we were deprived of the opportunity to speak or even vote in the purported “election.”

126. We were ordered to leave the purported “election.”

127. When Sammy Blackbear and I were properly nominated for Tribal office, Rex Allen, who was conducting the purported “election” stated our names were not accepted as valid nominations because we had not signed the attendance roll.

128. Even though General Council members who had signed the Leon Bear conspiracy attendance roll (and who were thereby theoretically eligible to fully participate in the Leon Bear

conspiracy based purported “election”) wanted to nominate and vote for Margene Bullcreek and me as Tribal officers, Rex Allen forbade such nominations and votes. Please see from page 53 for more details.

129. This is not the way General Council members, attendance rolls, meetings or elections must be treated under our official and traditional government.

130. The General Council has never debated, discussed, approved or ratified this “new policy” that Leon Bear and his co-conspirators have inflicted on our Tribe.

131. Leon Bear’s violation of our official Tribal governmental way of conducting meetings, holding elections and using attendance rolls, including his insistence that he can exclude General Council members present at a meeting from participating or being a candidate for office, and even remove or otherwise discipline them for refusing to sign his unlawful attendance roll, has deprived me, my family and other Tribal members of our rights as members of the Band and as Americans, in violation of our official Tribal government, Tribal Code, and U.S. law, and continue to do so.

132. We have suffered great and irreparable injury and harm and continue to suffer great and irreparable injury and harm as a direct result of these unauthorized, wrongful and unlawful acts.

**BIA Perceived as Endorsing Leon Bear
General Council Powerless to Remove Leon Bear in Face of BIA Endorsement**

133. It is widely believed among General Council members that the BIA likes Leon Bear and that no matter what the General Council votes or does, the BIA will keep Leon Bear in office and do whatever Leon Bear asks them to do, especially in order to support the PFS project, which the General Council believes the federal government wants at all costs.

BIA Recognizes Leon Bear and His Co-conspirators as Tribal Officers

134. Superintendent Allison has announced that neither he nor the BIA has formally recognized Leon Bear or any other Tribal member as a Tribal officer since at least 1990.

135. A few of the numerous examples of the BIA formally recognizing Leon Bear and his co-conspirators as Tribal officers are:

- a. When Superintendent Allison and the BIA not only allowed but actually assisted Leon Bear and his co-conspirators in negotiating in the name of our Tribe with PFS in the siting of the world's largest private high-level nuclear waste facility on our reservation.
- b. Every time Superintendent Allison or other BIA personnel address, mail, fax, telephone or deliver Tribal communications and documents to Leon Bear or others of his co-conspirators, either in person or at Leon Bear's unauthorized offices in Salt Lake City.
- c. Every time Superintendent Allison or other BIA personnel attend a meeting where Leon Bear is present, the BIA personnel's words and actions act as an additional clear acknowledgment that the BIA considers Leon Bear to be the Tribal leader.

136. If the BIA is sincere in desiring to not recognize Leon Bear and his co-conspirators as Tribal leaders, then Superintendent Allison must (1) send a letter to each and every Tribal member clearly stating that the BIA does not recognize Leon Bear, and others mentioned in the letter by name, as Skull Valley Goshute Tribal leaders, (2) stop treating Leon Bear and his co-conspirators as Tribal leaders, (3) intervene to protect all Tribal assets that are clearly or even arguably within the BIA sphere of supervision, and (4) fully investigate all allegations and publish the investigation results to all General Council members. (5) recognize the legitimate Tribal government whom the BIA unlawfully removed from power (but not from office, see below), and aid them in holding fair

and legitimate elections as soon as this can be done.

General Council Removes Leon Bear Conspiracy and BIA Puts It Back in Power

137. Several years ago, before Superintendent Allison was assigned here, Leon Bear, who was then serving as a project manager, considered as a Tribal officer at that time, and his fellow "Tribal officers" were voted out of office and replaced by Bert Wash and myself. Leon Bear and Danny Quintana went to the BIA and said the election was invalid. The BIA, through a carefully orchestrated series of actions and inactions involving internal Tribal matters more fully explained below from page 42 through 50, restored Leon Bear and his co-conspirators to office. We decided that any further resistance would be futile because the BIA obviously wanted Leon Bear and his slate in power.

BIA Silence on Controlling Law Favors Leon Bear Conspiracy

138. In my presence, and in Superintendent Alison's presence, while claiming to act as a Tribal official, Leon Bear has stated that he (Leon Bear) is not bound by the U.S. law, the United States Constitution or the Indian Civil Rights Act, because of Tribal sovereignty.

139. When other General Council members and I have asked Superintendent Allison to help us by explaining to Leon Bear that his above set out version of Tribal sovereignty is not correct, that he is bound by U.S. law, the United States Constitution and the Indian Civil Rights Act, Superintendent Allison refuses to do so, and simply states that he is not going to get involved.

140. I personally asked Superintendent Allison, during a recent meeting, if he was going to observe the blatant violation of our Civil rights and do nothing. The Superintendent said he would not interfere. This was at a meeting attended by BIA police, at Leon Bear's request, "to make sure there are no problems."

141. Other General Council members have told me that they believe Superintendent Allison says he will not interfere because he supports Leon Bear and his co-conspirators, so we, as General Council members, have no choice but to go along with the BIA in recognizing Leon Bear and his co-conspirators as our Tribal leaders whether we want to or not.

BIA No Longer Provides Copies of Resolutions and Other Records to Members

142. Historically, the BIA required, received and maintained copies of all of our Tribal Resolutions, budgets and other important Tribal documents and records.

143. From time-to-time other General Council members and I have asked the BIA for copies of Tribal Resolutions, budgets and other important Tribal documents and records, and the BIA has provided those copies to us.

144. Recently, since Leon Bear has unlawfully seized control of our Tribe, when we ask for similar resolutions, documents and records, the BIA refuses to give them to us, saying that Leon Bear has told them not to.

145. When we remind the BIA that we are members of the General Council, the Tribe's sole governing body, and we need the requested copies in order to perform the official duties of our offices, we are again told that the BIA is under strict orders from Leon Bear that we are not to receive copies of any Tribal documents.

146. We have even filed formally under the Freedom of Information Act (FOIA) requesting needed Tribal documents, in our official capacities as members of the General Council, the Tribe's sole governing body, explaining that we need the requested copies in order to perform the official duties of our offices, to no avail, the BIA steadfastly refuses to provide us the documents we request.

147. The BIA's refusal to give us copies of documents we have historically been able to get from the BIA, when the BIA states the reason for the refusal is Leon Bear's instruction, reinforces the impression that the BIA supports Leon Bear and will do what ever he tells the BIA to do.

BIA Warns Leon Bear He Is the Target of Criminal Allegations
and BIA Refuses Protection for Opposition

148. In April of 1999 Leon Bear and his co-conspirators sent a notice for what they considered a General Council meeting.

149. Some General Council members and I were apprehensive of what Leon Bear and some of his co-conspirators might do at the meeting, so we asked our attorneys to see what could be done to protect us.

150. Our attorneys sent the U.S. Attorney a letter outlining our concerns and some of the things Leon Bear had done before to support our request for help and protection (see Exhibit "Q").

151. The U.S. Attorney immediately sent that letter to his client, the BIA, and the Solicitor's Office.

152. Our attorneys met with the field Solicitor who stated that our letter contained serious allegations of felonious criminal behavior against Leon Bear, and that he would immediately refer that letter to the Inspector General for a criminal investigation.

153. The BIA promptly faxed that letter containing "serious allegations of felonious criminal behavior against Leon Bear" to Leon Bear.

154. Neither the BIA, U.S. Attorney nor Solicitor did anything to protect us at the scheduled meeting as we had requested, nor has there been any sign of an investigation.

155. Leon Bear and his co-conspirators distributed that letter at the meeting, bragging that they had friends in the BIA who would protect them and who told them everything we did.

156. At that scheduled meeting, Leon Bear and some of his co-conspirators threatened me and the other General Council members represented by our attorneys with disenrollment unless we stopped discussing Tribal matters, issues and meetings with our attorneys (more fully explained from page 32 herein).

157. Superintendent Allison was present at that meeting and his silence was widely considered as an endorsement of everything Leon Bear and his co-conspirators had done and said.

158. Based on Leon Bear's actions, and Superintendent Allison's indorsing silence, General Council members that had previously expressed support for our opposition to Leon Bear and the PFS project backed away and told us that they did not want to lose their Tribal membership.

BIA Abandons Historic Support of Quorum Requirement

159. Traditionally and officially, when a quorum was not present at a General Council meeting, the BIA would remind everyone that since a quorum was either not originally present or no longer present, no Tribal business could be conducted.

160. The BIA has also acknowledge in writing the need for a quorum (see Exhibit "R").

161. In recent years Superintendent Allison and other BIA personnel have been present at meetings called by Leon Bear and his co-conspirators where a quorum was not present, and when other General Council members and I have raised the issue of the need for a quorum Superintendent Allison and other BIA personnel have refused to acknowledge or even discuss the need for a quorum as they have traditionally done.

162. This change in BIA behavior which happened after Leon Bear unlawfully took over

control of the Tribe is generally considered just one more example of the BIA endorsing Leon Bear and his co-conspirators.

2000 Tribal "Election"
BIA Silence Condones Irregularities, Improprieties, Violations of Federal Law

163. When Leon Bear and his co-conspirators conducted Tribal "elections" on November 25, 2000 there were numerous irregularities, improprieties and violations of federal law and Tribal Code in connection with those "elections." Please see from page 53 for more details.

164. At the purported "election" Superintendent Allison publicly announced he would not interfere, no matter what was done.

165. Superintendent Allison's statement was again widely considered as a continuing BIA endorsement of the corrupt Leon Bear regime, reinforcing the attitude that any resistance is futile.

Conclusion: BIA Backs Leon Bear

166. Because of these situations and a long pattern of other BIA conduct viewed as supporting Leon Bear, many members of our General Council have told me they strongly believe Leon Bear has the backing of the BIA and we are powerless to remove him.

167. As long as this view of BIA endorsement of Leon Bear is widely held by members of our General Council, our Tribe can not have an open and free election.

168. If the perception of the BIA endorsing Leon Bear is incorrect and simply a product of circumstances, and the BIA desires to correct such a misperception, then it is not enough for the BIA to know this within itself, or even to simply tell the General Council members who hold this misperception of their error. The BIA must actively and aggressively take all reasonable action possible to convince Tribal members of this misperception or it will do nothing but reinforce

existing believes of BIA endorsement.

169. The above described acts have deprived me, my family and other Tribal members of our rights as members of the Band and as Americans in violation of our Tribal Code and official Tribal government, and U.S. law, and continue to do so.

170. We have suffered great and irreparable injury and harm and continue to suffer great and irreparable injury and harm as a direct result of the real or perceived BIA endorsement of Leon Bear and his co-conspirators.

Leon Bear Is Not a Properly Elected Tribal Officer

171. Leon Bear is not now a properly elected Tribal officer and is not now and has never been the Tribal Chairman, for several reasons.

Leon Bear Was Recalled

172. In January of 1994, before Superintendent Allison was assigned here, Leon Bear, who was then serving as a purported Tribal officer (so called "Project Manager"), and his fellow "Tribal officers" (Lawrence Bear, Chairman and Richard Bear, Vice Chairman) were voted out of office by a recall, and replaced by Bert Wash as Chairman and myself as Vice Chairman (Leon Bear was recalled but not replaced because his so called "office" had never been authorized).

173. In the years prior to January of 1994, Leon Bear and his Bear regime, acting as purported Tribal officers, began overt acts to usurp power from the General Council, and locate an unauthorized high-level nuclear waste facility on the Skull Valley Goshute Indian Reservation, without the informed consent and control of the General Council.

174. As examples of the Bear regime bypassing the General Council, they had hired Danny Quintana as purported Tribal attorney without the specific authorization of the General Council

(and without the required authorization of the BIA), had created a purported and unauthorized Tribal office of Project manager, and made Leon Bear the purported Project Manager officer, without General Council authorization, had proceeded in the high-level nuclear waste facility project (then called the MRS Project) without keeping the General Council properly informed or in control, and had used Tribal funds (hundreds of thousands of dollars) without proper accountability to the General Council.

175. During the week of December 20, 1993, I and a majority of the voting members of the General Council, the sole Tribal governing body, signed a successful, valid, and legitimate recall petition. The recall petition had the stated purpose of ousting the purported Tribal officers including, specifically, Leon Bear, for violating Tribal governmental requirements, especially accountability for Tribal funds, trying to bypass the General Council, and attempting to pursue projects (the Project Manager's major project being a high-level waste facility) without proper General Council informed consent and control.

176. Recall petitions are nothing new to our Tribe, but they usually involve some isolated instance of malfeasance or misuse of office, or even a spasm of inter-family squabble. This was the first instance anyone I know can remember of a recall because the purported officials were trying to systematically usurp power, bypass the General Council, and without any authorization from the members, set up an illegitimate and unauthorized new form of government.

177. On January 8, 1994, at a proper, valid, and legitimate meeting of the General Council, a majority of the voting members of the General Council dismissed the recalled purported Tribal officers, including Leon Bear.

178. They then separately elected new Tribal officers. At this election, a majority of the

voting members of the General Council elected Bert Wash, Margene Bullcreek's brother, as Tribal Chairman and myself, as Vice Chairman, both of us to serve for four year terms.

179. As it turns out, this was the last proper, valid, and legitimate Tribal election ever held, see below, and as Bert Wash died in office, I became the Tribal Chairman and currently hold that office until I can hold a fair and legitimate election.

180. At that meeting some resolutions were properly revised and reissued, and Danny Quintanna was rejected as ever being the Tribal Attorney, or ever representing the Tribe in any capacity whatsoever.

181. Since this time, the General Council has repeatedly taken similar action against Danny Quintanna for purporting to be the Tribal Attorney, even though he has never been the Tribal Attorney and never been authorized to represent the Tribe in any capacity whatsoever.

182. On January 13, 1994, at the improper instigation of Danny Quintanna, unlawfully claiming to act as Tribal Attorney, the BIA forced a meeting at its offices. Present were the dismissed Leon Bear regime, their non-Indian co-conspirator Danny Quintana, and the newly elected Tribal officers. At that meeting, as part of what is referred to herein as the status quo agreement, everyone, including the BIA and the Bear regime, agreed that the recall was valid, and the subsequent election of Mr. Wash and myself properly occurred. As part of this agreement, Mr. Wash and I were informed that the BIA would not recognize our valid and legitimate election without first "polling" the members of the General Council. The pretext given for this BIA position was that Danny Quintana had alleged that for some reason not every member had received a copy of the notice of the January 8th recall meeting, even though a notice had been sent to every member. The BIA acknowledged that Mr. Wash and Mr. Blackbear had done everything

properly and had 43 out of 70 voting members of the General Council present at the meeting, and could be recognized as the newly elected Council, but felt Danny Quintana had a valid point that all members should have a chance to vote for a new Council. At no time did the BIA claim that the election of Mr. Wash and myself was improper or invalid. According to the BIA, if a majority of the members desired a new election (giving those members, who for some reason had not received a notice, a second chance), a new one would be held. If not, the election of Mr. Wash and myself would stand as the status quo, and would be recognized by the BIA. No adequate explanation was given or legal basis provided for this arbitrary, capricious, improper, and unlawful interference in an internal Tribal election.

183. The BIA's conducting such a poll, without any legal basis (neither our Tribal governmental rules, federal law, nor BIA regulations provide for such a poll by mail to be held by the BIA under such circumstances) in improper and unlawful interference, was protested by our legitimate Wash - Blackbear administration, but the legitimate Tribal government was overruled by the BIA, in favor of Leon Bear's attorney.

184. On January 19, 1994, the BIA improperly and unlawfully sent a very confusing "ballot" under BIA cover letter, and using BIA imprinted and franked envelopes (see Sammy Blackbear Declaration, Exhibits 18, and Bullcreek Declaration, Exhibits S). The "ballot" had a "yes" purported vote represent a desire for a new election, and a "no" purported vote represent no desire for a new election, "indicating that Mr. Bert Wash, Chairman and Mr. Sammy Blackbear, Vice Chairman, will remain as the Skull Valley Council." Clearly this establishes Mr. Wash and Mr. Blackbear as the agreed upon status quo position. As stated by the BIA in its January 19 letter, if the majority of the members do not desire a new election, "for the purpose of giving all

Tribal members an opportunity to vote for a new Council” then “Mr. Wash and Mr. Blackbear will serve as the New Skull Valley Council” (underlining is a part of the original letter).

185. Although in its January 19 cover letter the BIA improperly refers to Danny Quintanna as the Tribal Attorney, the BIA acknowledges that: “a majority of the Tribal members recalled both the Chairman and Vice Chairman from their duly elected offices and subsequently held an election whereby Mr. Bird [sic] Wash was elected as Chairman and Mr. Sammy Blackbear elected as Vice Chairman.” No statement that the BIA considers this election in any way not proper and valid is given anywhere in this extended letter from the BIA. The only issue is whether or not those few members who allegedly did not receive a notice should have a second chance to vote, and that was only to happen if the majority desired a new election.

186. On January 31, 1994, the BIA, in a letter blatantly and improperly acknowledging the admittedly recalled Lawrence Bear as “Tribal Chairman” stated that the poll “election” had ended in a tie. Therefore the agreed upon status quo position should prevail, which by the BIA’s own position meant the legitimate Wash-Blackbear administration would be retained and recognized by the BIA. Instead, in an obviously manipulative and intrusive violation of their agreement and reversal of their position, in order to unlawfully return the Bear regime to power, the BIA re-characterized the status quo as “retaining” the Bear regime, extending improper recognition to it as if it had never been recalled and dismissed. Not surprising, and in blatant violation of our Tribal government, the Bear regime chose to “remain” in unlawful power as if never recalled and dismissed.

187. The BIA further allowed the now illegitimate but newly and improperly recognized Bear regime to decide if a new election was to be held. The now illegitimate Bear regime scheduled a

meeting for February 19, 1994, not "for the purpose of electing a new Council" as agreed, but to support the Bear regime as though never dismissed.

188. Our legitimate Tribal government, as represented by the properly elected but not yet BIA recognized Wash - Blackbear administration, sent an undated letter to the members reminding them that the Bear regime had been recalled and dismissed and that the Wash-Blackbear administration had been properly elected, both of these events having been agreed to by both the dismissed Bear regime and the BIA as part of the status quo agreement, before the pole vote was made by the BIA. As the poll vote was purportedly a tie, the legitimate administration acknowledged the usefulness for a meeting on February 19 to verify the wishes of the Band. But if a meeting is held, the properly elected legitimate Walsh-Blackbear administration must conduct it. If a majority does not attend the new election, then the Walsh-Blackbear administration will remain in office. If a majority does attend the new election it will be for the purpose of holding the new election for reasons which can be given by the members at the meeting.

189. According to the requirements of our Tribal government, a new election requires open nominations and all of the other election rules must be complied with.

190. In an undated letter, on Tribal letterhead, Bert Wash, the legitimate Tribal Chairperson requested the BIA to attend with BIA police.

191. Our legitimate Tribal government did this so the BIA could enforce the agreed upon status quo, help the legitimate Tribal government maintain order and see that the Tribal election rules are complied with.

192. At the February 19 meeting, Rex Allen, purported Tribal Secretary, did not properly turn the meeting over to the legitimate Wash-Blackbear administration, but instead turned the

meeting over to the recalled and dismissed illegitimate Bear regime.

193. The meeting began to be run in a manor that violated our Tribal governmental rules for General Council meetings. The purported Chair refused to read the minutes of the previous meeting, an election of a type not permitted was announced, the rules for elections were not going to be complied with, the rules for conducting Tribal business, such as generating resolutions, were not going to be complied with. The BIA and BIA police did not help maintain the agreed upon status quo and support a proper election according to Tribal rules but supported the illegitimate Bear regime, interfered with attempts by the legitimate government to protest the unlawful activities, and supported the unlawful activities by their actions.

194. Many of the members left so as not to be a part of the unlawful activities. Only 27 members were left at the purported meeting, much less than a quorum.

195. The illegitimate Bear regime proceeded with the unlawful meeting consisting of 26 Bear supporters and one other member. The Bear regime handed out slips without indicating what the vote was for, proceeding with a ballot to purportedly reinstate the recalled and dismissed Bear regime. This type of election is not supported by our Tribal governmental election rules. There were no open nominations and all of the other election rules were not complied with. Leon Bear declared himself a Tribal officer and took control of the meeting.

196. This type of rigged election, without a quorum, with no open nominations and violating other election rules, and where the results are a forgone conclusion, became the trademark of the illegitimate Bear regime as they took over unlawful control of the Tribe and evolved the one man dictatorship which unlawfully rules today.

197. Leon Bear then proceeded with violating our Tribal governmental rules for generating

resolutions by introducing a resolution in support of locating a high level nuclear waste facility on the reservation (then the MRS Project) which was not well supported by even his own supporters, so he did not bring it to a vote, but laid it on the table, where only 10 persons signed it during the course of the purported meeting (in violation of our Tribal governmental rules, see above).

198. On March 7, 1994, our legitimate Tribal government (Mr. Wash and myself) sent a letter to the BIA vigorously protesting the reversal of the agreed upon status quo and the unlawful activities that occurred at the February 19 meeting, with the apparent support of the BIA, and again asking the BIA for the promised recognition of the legitimate administration.

199. To our surprise, the BIA, in blatant and improper support for the illegitimate Bear regime, sent a letter back stating for the first time that the BIA considered the election of Bert Wash and myself to be invalid. The BIA gave as justification for this new position the opinion that elections for new Tribal officers should not be held at the same meeting as the recall of the prior officers.¹ This opinion had never been expressed before. The recall and subsequent election had been done in two separate actions at the January 8 meeting and no statement that the election had been invalid was expressed by the BIA at the January 13 meeting, where the status quo of the

¹ I have three problems with this BIA position. First, I don't know what the legal basis for this position was, Tribal or U.S. law. The BIA position was certainly was not supported by our Tribal governmental rules, which were strictly followed (this is the way we have always done it, and we had a quorum and followed our rules for recall and for elections). Second, the election for new officers was not held at the same time as the recall vote, the election was held subsequent to the recall vote, as acknowledged in the first paragraph of the BIA letter to members referred to below. Third, the BIA either has authority to get involved in Tribal elections or it does not, but it certainly does not have authority to get involved only long enough to interfere with the results of a valid election by a majority, and then say it has no authority to monitor the subsequent BIA caused illegitimate and invalid election (which violated our Tribal government requirements and did not have a quorum), as happened in this case.

Wash-Blackbear administration was agreed upon. No explanation was given for the inexplicable violation and reversal by the BIA of the status quo agreement. The BIA stated in the letter that it was BIA policy not to get involved in internal Tribal matters so it could not address any claimed unlawful activities and thus the BIA was going to recognize the admittedly recalled Bear regime. But justice would prevail (the BIA claimed) because the BIA had arranged with the newly recognized but illegitimate Bear regime for a forum for the claims that the Bear regime was illegitimate and had engaged in unlawful activities, the claims would be heard by that same Bear regime.

200. Not surprisingly, the illegitimate Bear regime has not acknowledged its illegitimacy or its blatantly illegal activities.

201. Traditionally and officially in our Tribe, everyone is allowed to inspect all ballots.

202. Bert Wash and I immediately asked the BIA for an opportunity to inspect the mail-in ballots.

203. The BIA informed us that the ballots had been destroyed.

204. Bert Wash and I immediately asked the BIA to inspect the mailing list and the list of who had returned ballots.

205. The BIA informed us that the lists and everything else related to their mail poll had also been destroyed.

206. The BIA's destruction of the ballots and other polling records and/or refusal to allow us to inspect those ballots and other polling records, something our Tribe has traditionally allowed, was clearly involvement and even interference in our internal Tribal election process.

207. Bert Wash, myself, and the General Council decided that any further resistance would be

futile because the BIA obviously wanted Leon Bear and his slate in power.

208. Ever since, our legitimate Tribal government has been ignored by the illegitimate Bear regime and by the BIA and by PFS. I hope that the NRC deals more fairly with our Tribe.

209. Because Bert Wash died soon after this, while in office, I have replaced him as our Tribal Chairman, waiting for the chance to call a proper and valid election according to our official Tribal governmental rules, as soon as Leon Bear and his co-conspirators are removed and the Tribe can be governed by its legitimate Tribal rules.

210. Although the legitimate government has been removed from power, I have not been removed from office (which can only occur in a proper recall election) and I am pursuing all peaceful remedies, until a legitimate election can be held, including an action in federal court against the BIA.

Subsequent Election Misconduct and Bribery

211. At one election, where Leon Bear ran for Tribal Chairperson, Leon Bear held up a bundle of Tribal checks and stated that unless he was elected, they would destroy those checks and none of the Tribal members would have them for Christmas.

212. When some of us explained that whoever was elected could and would immediately replace those checks so all Tribal members would receive their Christmas dividends, Leon Bear and some of his co-conspirators stated that was untrue because he would refuse to transfer the checking account signing power so it would take many months for any of the Tribal members to receive the Christmas dividend checks.

213. Leon Bear and some of his co-conspirators again told the General Council members present, as he (Leon Bear) held the checks up in the air, that the only way to receive the

Christmas dividends in time for Christmas was to vote for him (Leon Bear).

214. Based on these threats and this bribery, because they were used to Mr. Bear's intimidation, and because of the belief of many members of the General Council that it was fruitless to fight against the BIA's obvious support, Leon Bear's usual "election" manipulations were not challenged, and his regime was "elected" in yet another rigged and illegitimate "election".

215. BIA personnel were in attendance at the "election" and witnessed the above acts.

216. We did not complain to the BIA because we thought it would be fruitless to do so based on its historic actions described above and its representation at the "election" in giving Leon Bear such blatant support.

Any Possible Term Had Expired a Year Ago

217. According to the rules of our official Tribal government, our elections for Tribal officers are conducted by the Tribal Chairperson and Tribal Vice Chairperson.

218. Our Tribe has not had a Chairperson or Vice Chairperson that could conduct any election, for the reasons explained below, for some time now.

219. Officially, according to these rules, we elect our Chairperson and Vice Chairperson to four year terms.

220. Officially, these elections are held every four years.

221. Any term of office Leon Bear could have been elected to serve would only run for four years (see Exhibit J, page 8, line 6) and thereafter he would be out of office.

222. The last time Leon Bear claimed to hold an "election" for Tribal Chairperson and Vice Chairperson was over five years ago, in November 1995 (please see Exhibit "S").

223. The term of office for any Chairperson or Vice Chairperson that could have been elected at a 1995 purported election would have expired over a year ago in 1999.

a. According to our official rules, only properly elected Tribal officers have any authority to conduct Tribal business, collect or spend Tribal money, sign agreements for the Tribe, or otherwise speak or act for the Tribe. The one exception is if the Chairperson dies in office. Then the Vice Chairperson takes charge as chairperson until a proper and fair election can take place.

224. Neither Leon Bear nor Mary Allen have any authority to do any of this, at any time, unless it is during a period for which they were properly elected.

225. Since it was clear that under no circumstances could Leon Bear or Mary Allen been properly elected Tribal officers for the past year, they should not have had access to Tribal funds.

226. Based on the expired terms of office and unauthorized access of Tribal funds, Superintendent Allison was given a request to audit all Tribal accounts during the past year, which request was signed by more than one third of all General Council members (see Exhibit "T").

227. To my knowledge, Superintendent Allison has not acted on that request.

2000 Tribal "Election" and More Irregularities, Improprieties, Violations of Federal Law

228. When Leon Bear and his co-conspirators conducted purported Tribal "elections" on November 25, 2000 there were numerous irregularities, improprieties and violations of federal law in connection with those "elections."

229. Superintendent Allison was present at this "election" and not only refused to help, but publicly announced that he would not interfere, no matter what was done.

230. Superintendent Allison's statement was again widely considered as a continuing BIA

endorsement of the corrupt Leon Bear regime, reinforcing the attitude that any resistance is futile.

231. At that "election," in violation of the rules of our official Tribal government, Leon Bear and some of his co-conspirators placed their now standard statement at the top of the attendance roll basically stating that by signing the attendance roll each General Council member promises to agree to and abide with Leon Bear's unauthorized "new policy" of secrecy (more fully explained from page 32 herein), subject to the penalties Leon Bear may impose, including termination of our Tribal membership.

232. Several General Council members present, including me, refused to sign the unauthorized attendance roll and were deprived of the opportunity to speak or even vote in the "election."

233. Rex Allen, who was conducting the "election" ordered us to leave because we did not sign the unauthorized, unlawful Leon Bear conspiracy attendance roll. We refused to leave.

234. All of the General Council members in attendance were assured that if they signed the attendance roll (with the unauthorized, unlawful "contract" at the top), they would be allowed to fully participate in the "election."

235. When General Council members who had signed the unauthorized attendance roll nominated Margene Bullcreek and me for Chairperson and other General Council members who had signed the unauthorized attendance roll seconded the notations, Rex Allen stated our names were not accepted as valid nominations because we had not signed the attendance roll, and General Council members who had signed this (unauthorized) attendance roll were not allowed to vote for Margene Bullcreek or myself.

236. Since General Council members were not allowed to nominate Margene bullcreek or

me, Leon Bear was unopposed and was declared the winner of the Chairperson "election."

237. Mary Jane Allen and Leon Bear's cousin Lori Bear Skiby were nominated for Vice Chairperson.

238. When a General Council member who had signed the unauthorized attendance roll then nominated Margene Bullcreek for Vice Chairperson, and other General Council member who had signed the unauthorized attendance roll seconded the notation, Rex Allen again stated her name was not accepted as a valid nomination because she had not signed the attendance roll, and General Council members who had signed this (unauthorized) attendance roll were not allowed to vote for her.

239. Rex Allen then immediately closed the nominations even though there were General Council members with their hands up seeking to make other nominations.

240. Leon Bear's cousin Lori Bear Skiby received one more vote than Mary Jane Allen did, so she (Lori Bear Skiby) was declared the winner of the Vice Chairperson "election."

241. Immediately after this "election" was concluded, enough General Council members who had signed the unauthorized attendance roll said that if they had been allowed to vote for Margene bullcreek, she would have received more votes than either of the other candidates for Vice Chairperson had received, so she would have won the "election" for Vice Chairperson.

242. There were numerous other irregularities, improprieties and violations of federal law in connection with those "elections," all ignored and thus impliedly endorsed by the BIA.

243. I and other members of the Tribal General Council view the actions and inactions of the BIA in this matter as endorsing Leon Bear over the wishes and votes of the General Council.

244. I do not believe that Leon Bear or any of the other current "Tribal" officers would be in

the position to have unlawfully seized control of our Tribe as they have, but for the BIA's long term and continuing course of conduct favoring and recognizing Leon Bear and his co-conspirators, to complement PFS' active support and improper dealings.

245. The above described acts have deprived me of any effective ability to act in my office of Tribal Chairperson or to hold a fair and legitimate election which is my duty, having replaced Bert Wash when he died in office, which depravation is in violation of our official Tribal government, Tribal Code, and U.S. law and continues today.

246. We have suffered great and irreparable injury and harm and continue to suffer great and irreparable injury and harm as a direct result of these unauthorized, wrongful and unlawful acts.

Purported PFS Lease Agreement Unlawful and Without General Council Approval

247. Leon Bear and some of his co-conspirators announced in 1997 that they had signed a purported lease agreement with Private Fuel Storage, LLC for some of our Tribal trust lands.

248. According to our official Tribal government, the General Council has the exclusive authority to approve and authorize such leases and agreements concerning Tribal trust land.

249. The General Council has never even seen, let alone approved or authorized the purported PFS lease agreement.

250. Leon Bear and his co-conspirators are aware of the requirement that the General Council must approve all such leases, as evidenced by an October 23, 1994 meeting report made to General Council members by the executive committee² (see Exhibit "U"):

² Leon Bear knew about this report because he was the Project Manager for this project at the time, and had in fact just been fired from that position at the meeting being reported on, as indicated therein. Even though the General Council fired Leon Bear at that meeting, the executive unit "reassigned" him to a new job with the same duties. Nothing changed but Leon

1. Monitored Retrievable Storage Facility (MRS)

On March of 1994, General Council Resolution was signed, to allow the Executive Committee to negotiate an agreement with the Federal Government, to site this project on the Skull Valley Indian Reservation.

When the final agreement has been drafted the Executive Committee will not sign any documents until the Band has signed a General Council Resolution approving all the terms of the agreement and all the benefits. The Band must be completely satisfied and comfortable with the project and the benefits the Band will receive.

251. The General Council members don't even know "all the terms of the agreement and all the benefits," and are therefore not "completely satisfied and comfortable with the project and the benefits the Band will receive" because virtually none of the General Council members have ever seen or read the Purported Lease Agreement or been told this information theoretically contained in it.

252. Superintendent Allison, Leon Bear and PFS employees have all testified to months of negotiations and numerous changes to the purported agreement between PFS and Leon Bear³ such that the "final agreement" was drafted incorporating all such modifications and changes, including those made on the day of signing, but there is no subsequent "General Council Resolution approving all the terms of the agreement" as promised.

253. The unlawful "resolution" Leon Bear and his co-conspirators offer as the authorizing resolution is dated and certified in December of 1996, long before the "lease agreement" was finalized.

Bear's title.

³ There is no BIA administrative record which supports such testimony and there was no sign of such purported BIA involvement visible to the members of the Tribal General Council.

254. At the October 1994 meeting being reported on in Exhibit U, the BIA likewise acknowledged the need for full General Council (with a quorum present) approval of any lease agreement when Norman Cambridge, of the BIA, reminded the General Council 36 voting members will be the quorum needed at a meeting to approve a lease, anything less will not be recognized by the BIA.

255. When the Hercules lease was under consideration the Tribal leadership and BIA went to great lengths to be sure each and every General Council member had a copy of the proposed lease and all amendments before the meeting so they could properly consider supporting or opposing the project (see Exhibit "V").

256. Leon Bear's violation of our official Tribal governmental way of approving leases of Tribal trust lands, has deprived me, my family and other Tribal members of our rights as members of the Band and as Americans, in violation of our official Tribal government, Tribal Code, and U.S. law, and continue to do so.

257. We have suffered great and irreparable injury and harm and continue to suffer great and irreparable injury and harm as a direct result of these unauthorized, wrongful and unlawful acts.

PFS Money from Tribal Trust Lands Withheld and Improperly Divided

258. Leon Bear and some of his co-conspirators have announced that PFS has paid them and the Tribe millions of dollars as a result of this purported "lease agreement" of Tribal trust lands.

259. All of this money is subject to BIA supervision and oversight.

260. At least once each year for the past several years, normally at Leon Bear conspiracy noticed meetings but sometimes in other places, opposing General Council members have made it a point to ask Leon Bear and some of his co-conspirators why some Tribal members receive a

portion of the PFS money while other Tribal members, including my children and I, do not receive any such money.

261. In response Leon Bear has repeatedly stated that those Tribal members that support the PFS project and him (Leon Bear) get a share of PFS money while those Tribal members such as my family and I who are opposed to the PFS project and him (Leon Bear) do not share in those moneys.

262. My minor children do not and can not legally "support" or "oppose" such matters as the purported PFS lease agreement and project, because they are minors and have no vote in Tribal government, business or affairs.

263. Yet Leon Bear and his co-conspirators have cut them off from PFS money that is coming into our Tribe from Tribal trust lands on the pretext that these minor children oppose him and the PFS project.

264. I have read newspaper stories quoting Leon Bear saying similar things about unequal distributions to what he has told me. For example Leon Bear is reported in the October 11, 1998 Provo Daily Herald, at A7, as follows (see Exhibit "W"):

Several years ago, the tribe changed how dividends are distributed. [Leon] Bear Compares the tribe's distribution of dividends to a corporation's allocation of excess profit to its shareholders.

Adult Goshute members receive dividends of different monetary amounts depending on how they signed on tribal resolutions. If the member signs in agreement, he receives dividends from that resolution.

For example, Bear says, if the tribe wants to build an airport on the reservation, it would present a resolution before the tribal members at one of its meetings. Members would either sign the resolution to support or reject it. Whoever signs in favor of the airport will receive a portion of the airport's profits.

“You only get what you sign for. If they signed up for the PFS, they got some money.”

265. Leon Bear even testified to the Utah State Legislature that equal distributions “changed” “ten years ago” (see Exhibit J, page 13, line 24 through page 14, line 9).

266. There has been no such change made by our General Council.

267. These acts have deprived me, my family and other Tribal members of federally supervised money that we were entitled to, without due process and in violation of federal law and continue to do so.

268. We have suffered great and irreparable injury and harm and continue to suffer great and irreparable injury and harm as a direct result of these unauthorized, wrongful and unlawful acts.

Discrimination in Using U.S. Federal Money for Home Repairs

269. Traditionally and historically, the Tribe has been responsible for maintaining and repairing all homes on the Reservation.

270. Traditionally and historically, from time to time various federal grants, such as HUD and HIP program grants, are provided to the Tribe to be used for maintaining and repairing homes on the Reservation.

271. Traditionally and historically, when such federal grants are awarded to the Tribe, the Tribal leaders made sure all eligible members were aware that such funds were available and published application procedures.

272. Since Leon Bear and his co-conspirators have unlawfully seized control of the Tribe, there has been no public notice that such monies are available.

273. I am aware that such monies have been provided by the federal government since Leon

Bear and his co-conspirators have unlawfully seized control of our Tribe.

274. For example, in recent years our Tribe has received annual grants from HUD.

275. At least once each year for the past several years, normally at Leon Bear noticed meetings but sometimes in other places, I have been present when Margene Bullcreek has asked Leon Bear and some of his co-conspirators for needed repairs to her home and to upgrade her home to make it liveable.

276. Leon Bear and some of his co-conspirators have given several responses to these requests, including:

- a. Ignoring her.
- b. Telling her there was no money available for home repairs.
- c. Publicly promising her such help and later refusing to follow through on the promises.
- d. Promising her application forms but failing to give any to her.
- e. Telling her each head of household is now responsible for maintaining and repairing his or her own home.
- f. But lately Leon Bear just says she does not get anything from him (Leon Bear), the Tribe or any federal government housing programs because she opposes him (Leon Bear) and the PFS project.

277. Houses belonging to Leon Bear and his supporters have been rebuilt and extensively remodeling during this time, with what I believe is U.S. federal housing program money.

278. These acts have deprived me, my family and other Tribal members such as Margene bullcreek of federal housing money that we were entitled to, without due process and in violation of federal law and continue to do so.

279. We have suffered great and irreparable injury and harm and continue to suffer great and irreparable injury and harm as a direct result of these unauthorized, wrongful and unlawful acts.

Leon Bear Wrongly Withholds Money that is Subject to BIA Oversight

280. My children and I are due money which in the past we have received from the Tribe, the BIA and other agencies, but Leon Bear and his co-conspirators have refused for years to give us the money I beleive we are legally entitled to.

281. At least once each year for the past several years, normally at Leon Bear noticed meetings but sometimes in other places, I have asked Leon Bear and some of his co-conspirators for various money due me and my children from the Tribe, the BIA and other federal agencies.

282. All of this money is subject to BIA and federal government supervision and oversight.

283. Leon Bear and some of his co-conspirators have given me and other requesting Tribal members similar responses to these requests, including:

- a. Ignoring us.
- b. Inventing false reasons for not paying our children and us money we are legally entitled to receive.
- c. Stating that the supporters of the PFS project had plenty of money and asking why he should bother helping those that were against PFS.
- d. Stating that he was so busy facilitating the PFS project that he just did not have time to worry about his opponents' petty problems.
- e. Promising to look into the matter.
- f. Leon Bear's most recent response is saying neither our children nor us will get anything from him (Leon Bear), the Tribe or any federal government programs because we oppose him

(Leon Bear) and the PFS project.

284. These acts have deprived me, my family and other Tribal members of federally supervised money that we were entitled to, without due process and in violation of federal law and continue to do so.

285. We have suffered great and irreparable injury and harm and continue to suffer great and irreparable injury and harm as a direct result of these unauthorized, wrongful and unlawful acts.

Complete Lack of Any Information Concerning PFS Facility Safety Risks

286. One of my major concerns about the proposed PFS high-level nuclear waste dump Leon Bear and his co-conspirators want to put on our Reservation has to do with the safety of that proposed facility.

287. No one has ever told our members of any risk that might be associated with such a facility, all we have ever heard is how safe it will be.

288. Leon Bear has told our General Council that this facility will be safer than using a microwave oven because we are exposed to more radiation danger from a microwave oven than we will ever be from this PFS project.

289. Leon Bear and many of his family and supporters and Danny Quintana and other co-conspirators have traveled all over the nation and world looking at small, neat and tidy nuclear waste storage facilities.

290. Leon Bear and Danny Quintana have given us two video tapes of their travels. These videos have nuclear industry employees that also say nuclear waste storage facilities are safe.

291. When one of our General Council members asked Leon Bear if the Tribe has any published material discussing high-level nuclear waste storage facility safety, Leon Bear said he

has a whole stack of such reports in his office.

292. When that General Council member asked if she could read those reports, she was told she is too ignorant to understand them, so she should go back to school and when she graduates maybe then she would be allowed to read some of those reports.

293. I have been concerned about the safety of storing high-level nuclear waste from the time Danny Quintana first recommended that we turn our Reservation over to the nuclear industry to use as their dump. I have spent years studying the topic and I don't agree that it is as safe as a microwave oven.

294. I have heard that there are well qualified experts that do not agree that this project is as safe as Leon Bear and Danny Quintana and their co-conspirators have told us it is.

295. There are two sides to the nuclear safety debate, and most of our General Council and Tribal members have only heard one side of that debate, the Danny Quintana, Leon Bear and PFS "safer than a microwave oven" side.

296. We are entitled to hear the full story on the risks associated with living so close to this giant PFS high-level nuclear waste dump that Danny Quintana, Leon Bear, PFS and their co-conspirators want to build on our Reservation.

297. Each and every General Council member that has been asked to sign one or more of Leon Bear's "resolutions" supporting the PFS project deserves to know both sides, but no one has told them about the risks.

298. These acts have deprived me, my family and other Tribal members of information federal law mandates must be provided to us and which we were entitled to, without due process and in violation of federal law and continue to do so.

299. We have suffered great and irreparable injury and harm and continue to suffer great and irreparable injury and harm as a direct result of these unauthorized, wrongful and unlawful acts.

Phantom Tribal Corporation

300. I have read in the newspaper and heard from other sources that Leon Bear claims he has formed some sort of Tribal corporation that allows him to pay some Tribal members more than other Tribal members.

301. I have also heard that Superintendent Allison makes similar claims about a Tribal corporation formed more than ten years ago.

302. While a former Tribal Chairman, Lawrence Bear, has said "the Band operates the overall business enterprises like a small public company"⁴ (see Exhibit "X" page 2, Tribal Businesses paragraph), that does not mean it is a corporation, or that a Tribal corporation was formed, and in fact, that letter which lists all Tribal businesses does not indicate any such Tribal corporation.

303. Our official Tribal government requires that the Tribe share, and traditionally we have shared, all Tribal money that has been allotted for dividends, equally among all Tribal members.

304. Our General Council has never authorized the formation of any Tribal corporation in order to facilitate unequal distributions.

305. From time-to-time Leon Bear and his other purported Tribal leaders have made vague references to "the corporation" or have said they are acting as "facilitators for the corporation."

306. Whenever another General Council member or I have asked what corporation they are

⁴ This characterization is consistent with the Seventh Circuit Buffalo Brothers case where the business of a tribe is described as being like a corporation, where all of the members are equal share holders and where corporate minority shareholder rights are applied to tribal members (*U.S. Ex Rel. Mosey v. Buffalo Bros. Mgt., Inc.*, 20 F3d 739, 742 (7th Cir. 1994)).

talking about, we have not received an adequate answer.

307. I have always thought, as have other General Council members I have talked to, that Leon Bear, Mary Allen and Rex Allen were referring to PFS as this corporation, and nothing I have ever heard any of them say would suggest that this presumption was incorrect.

308. Despite Leon Bear and his co-conspirators making occasional mention of some sort of corporation, adequate information has never been made available to the General Council, and at no time has anything like such a corporation been considered, let alone voted on or approved.

309. The closest thing I can think of is when we received the Tooele County tax rebate and Leon Bear and Danny Quintana said they were considering an investment in some waste recycling business, they did mention some type of investment company.

310. Leon Bear and Danny Quintana said Tribal money would be used, not individual members' dividends. They wanted to share the profits from this project only with the General Council members who voted to approve the project instead of with all of the members. I voted against that proposal because we have always shared equally.

311. In any event, Leon Bear told us that waste recycling project went broke and any money invested in it was lost.

312. In any case a Tribal corporation cannot involve the proceeds from trust land without proper regard for the beneficial interests of all members. Therefore this unauthorized and phantom corporation cannot be justification for disparate treatment of members.

313. At no time have members been provided an opportunity such that some members invested their dividends in a Tribal corporation while other members took that dividend in cash. I certainly have never been offered such an option.

314. With the exception of money received from the federal government, all of which is earmarked for specific projects, almost all of our Tribal money over many years has been received from our Tribal trust lands or other BIA supervised sources. This includes our Tooele County Tax Rebate, all PFS payments, all payments from the rocket test facility, all money invested and hence all money from investments, and any sheep settlement resulting from burying the sheep on our Reservation.

315. If Leon Bear and his co-conspirators have created a Tribal corporation and funded it with Tribal money, then all of the Tribal money used to fund any such Tribal corporation was derived from Tribal trust lands or other BIA supervised sources and thus any proceeds of such a Tribal corporation must be divided among all members equally.

316. Any such Tribal corporation is subject to compulsory BIA oversight pursuant to the trust responsibility the BIA owes to our Tribe as a whole and to each Tribal member individually.

317. Leon Bear has frequently discussed PFS money in terms of unequal distributions, but he said those unequal distributions were based on "votes" or signing his "resolutions" in support of the PFS project. Leon Bear always seems to have new "PFS resolutions" to be signed.

318. Leon Bear told General Council members that the more such "PFS resolutions" a member signed, the more PFS money that member would receive.

319. Leon Bear has never said this unequal sharing of PFS money has been based on contributing dividends or investments into any project, company or corporation, but rather he has said it is based on "voting" and signing "PFS resolutions."

320. Again, I have read newspaper stories quoting Leon Bear explaining this same thing as he has told me and other General Council members, that our Tribal dividends are now based on

“votes” and “resolutions.”

321. Leon Bear and his co-conspirators always discuss their unequal distributions in terms of “votes” casts and “resolutions” signed but never in terms of investments, contributions or ownership in any corporation.

322. Leon Bear and his co-conspirators appear to be using the concept of a Tribal corporation to convince themselves and the BIA that the Tribal money derived from our Tribal trust lands that PFS is paying is not Tribal money, and is thus not subject to BIA oversight.

323. There is no authorized Tribal corporation.

324. Any interests in any unauthorized “Tribal” or phantom corporation is not based on contributions or investments made by individual Tribal members, but rather such interests are based on “votes” or “resolutions,” or in other words support for Leon Bear and PFS.

325. This phantom corporation and these acts have deprived me, my family and other Tribal members of federally supervised money that we were entitled to, without due process and in violation of federal law and continue to do so.

326. We have suffered great and irreparable injury and harm and continue to suffer great and irreparable injury and harm as a direct result of these unauthorized, wrongful and unlawful acts.

PFS Bribes Fund Leon Bear’s Unlawful Dictatorial Tribal Takeover

327. Leon Bear is continually telling all of us that PFS is pouring massive amounts of money into his pockets.

328. While Leon Bear sometimes claims this money is his personal money and other times claims it is Tribal money, he never waivers as to the source, it is always PFS and never some Tribal corporation. In any case, the money never reaches the Tribe.

329. Leon Bear even attributes the recent influx of money to PFS in print. For example, in April 1999 Leon Bear published and distributed a "Project Update" newsletter (see Exhibit "Y").

330. On the front page of that newsletter Leon Bear stated:

Our Band has already benefitted from our involvement with PFS. It has made it possible for us to have an office in Salt Lake City. It has added to our income, allowing us to make improvements to our community building, purchase and operate a "medivan" to take members to dialysis, replace or repair roofs on members' homes, and purchase a tractor, trailer and truck to use in our agriculture project.

Even before the PFS facility is ever built, we will continue to receive income, which will help us with our agriculture project, provide irrigation and water to new residences, and make it possible to build a cultural center.

331. The Purported Lease Agreement itself, on page 12 (Section 6) provides for pre-operational payments to be paid directly to the Band upon BIA conditional approval of that document, although the amount of that income has been redacted in the only copy of the purported Lease Agreement available.

332. PFS attorneys in court have admitted that the Band is currently receiving payments from PFS under the Purported Lease Agreement, payments they say will terminate if the Purported Lease Agreement is disapproved by the BIA.

333. These PFS payments are flowing from a BIA "approved" "lease agreement" of Tribal trust lands, requiring BIA oversight of all such payments.

334. PFS is making these payments directly to Leon Bear and his co-conspirators, bypassing the BIA and Tribe. The BIA has not maintained any supervisory oversight over these PFS payments nor does the PFS project have any oversight controls.

335. These PFS payments are being used to enable the corrupt Leon Bear regime to act as agents of PFS in its unlawful dictatorial takeover of our Tribe.

336. Because of the lack of proper BIA oversight, these PFS payments are being used to buy "votes" at "elections" the BIA recognizes and signatures on Leon Bear conspiracy "resolutions" that the BIA has accepted as valid Tribal resolutions.

337. These PFS payments are bribes. They are bribes when PFS pays them to Leon Bear for his support and assistance and they are bribes when Leon Bear, acting as an agent for PFS, pays them to others to gain support for himself and for PFS.

338. These bribes and these acts have deprived me, my family and other Tribal members of federally supervised money that we were entitled to, without due process and in violation of federal law and continue to do so.

339. We have suffered great and irreparable injury and harm and continue to suffer great and irreparable injury and harm as a direct result of these unauthorized, wrongful and unlawful acts.

Leon Bear's Dictatorial Retaliation Against a Fourteen Year Old Boy and His Family

340. At one of Leon Bear's recent meetings, Leon Bear was telling the General Council that the Tribe was broke and had no money for home repairs and other items.

341. Colleen Blackbear has six children.

342. Colleen Blackbear's fourteen year old son Joseph, an enrolled member of the Tribe, was present at that meeting and heard Leon Bear's say the Tribe was broke.

343. Joseph raised his hand and when recognized by Leon Bear said that he knew Leon Bear was unemployed and asked how he (Leon Bear) could afford all of the expensive new cars, trucks, trailers and recreational vehicles he had purchased in the last few months if the Tribe was broke.

344. Leon Bear snapped back that **HE** had plenty of money, it was the Tribe that was broke.

345. Joseph also asked why he and his family did not get any PFS money.

346. Leon Bear then said that since Joseph had been so disrespectful to his Tribal leaders, he (fourteen year old Joseph) would never see one more penny of PFS money.

347. Leon Bear not only terminated Joseph's minor's dividends, he terminated Joseph's entire family's minor's dividends.

**Examples of Leon Bear's Usurpation of Power, Corruption,
Suppression of Rights and Abuse at a Typical Leon Bear Meeting
August 22, 1998**

348. Leon Bear sent me a notice that he was going to hold a meeting at the Tribal meeting house on the Reservation, on August 22, 1998, starting at 10:00 a.m.

349. The August 22, 1998 meeting is being used as an example because of the many illegal and improper things that Leon Bear did in front of the BIA official, but BIA officials attend most Leon Bear meetings and Leon Bear does similar illegal and improper things at most of his meetings.

350. I attended that August 22, 1998 meeting.

351. I was continuously at the meeting, from beginning to end, and personally observed and heard what was said and done at the meeting.

352. I observed that a BIA official was also continuously at the meeting, from beginning to end, and presumably personally observed and heard what was said and done at the meeting.

353. At the meeting I discussed with other members attending the meeting the issue that Leon Bear, the purported Tribal Chairperson, has no known source of income, yet he has demonstrated evidence of having plenty of money.

354. Other members and I have observed that Leon Bear continues to purchase new cars,

trailer homes, four wheelers, a new irrigation system and a motorcycle.

355. Leon Bear's supporters also drive new cars and have new possessions, while those who do not support him or PFS continue to live in poverty.

356. During the course of the meeting, Leon Bear was accused of embezzlement, bribery and corruption, and he was told that what he was doing was wrong.

357. Leon Bear was asked to account for Tribal money and for the fact that for some time, he had been giving money to his relatives and/or supporters which the other Tribal members did not get.

358. Leon Bear stated that the money was from PFS and was not Tribal funds but profits.

359. Leon Bear stated that he had two hats, one as Tribal Chairperson and one as Facilitator for the Corporation.

360. Leon Bear stated that for budget purposes monies were of two kinds:

a. Leon Bear said the first kind of money was money from other sources. It was Tribal money, was part of the Tribal budget and was subject to BIA supervision. Leon Bear discussed this money at the meeting, although there were no details and no budget information sheet, and talked about what it was going to be used for. Leon Bear stated that the General Council, or Tribal members, no longer had any approval authority over the Tribal budget. Leon Bear stated that this year had been a good year.

b. Leon Bear said the second kind of money was money from PFS. Leon Bear stated that this was not Tribal money and Leon Bear could do whatever he wanted with it. He considers those who did not support the PFS project to have waived their right to any of this money.

361. Leon Bear refused to make any financial information available for the past three years

and no contractual agreements or any other documents affecting the Tribe were available to General Council members who requested them.

362. Someone stated there are General Council members who witnessed Leon Bear burning Tribal records. When asked about this, Leon Bear responded that he was only burning old records.

363. I asked Leon Bear about our equal rights on the Reservation.

364. Leon Bear said we did not have any equal rights because the Reservation is a sovereign nation.

365. Leon Bear said because of this sovereignty the Reservation did not have to abide by U.S. laws.

366. Leon Bear also said that because of sovereignty, Leon Bear was not doing wrong; Leon Bear could ignore United States laws.

367. Leon Bear explained that is why only his supporters get the PFS money.

368. He said for example, Tribal members who support PFS would get \$6,000.00 in Christmas money. Those who do not support PFS would not get any PFS money but would still get \$400.00 from other sources.

369. When minors turn eighteen, Leon Bear wants them to sign resolutions which support his power with the PFS project. If they do so, they will get PFS money.

370. Leon Bear was reminded that no resolutions in support of the PFS project had ever been properly approved by the General Council.

371. Leon Bear stated that this issue was irrelevant.

372. Leon Bear, Rex Allen and Mary Allen did not want to talk about Tribal business,

especially Tribal business they did not get done.

373. They admitted they have been spending most of their time on PFS business but it provides a lot more money, so they consider the other business, normal Tribal business, not needed.

374. For example, I was present when Richard Orteze, the BIA official attending the meeting, was asked about the HUD and HIP programs. He said there are monies in those accounts but Leon Bear was not using them.

375. At that meeting, as at almost every other meeting, Margene Bullcreek asked for HUD and HIP money to make her home on the Reservation ready for winter or even liveable.

376. Leon Bear (in front of the BIA official) refused her request, as Leon Bear always does.

377. During the meeting, Leon Bear was asked when Tribal members would have recourse to a Tribal court system.

378. Leon Bear stated that a Tribal court system was not available and gave some reasons, mostly that it was too expensive.

379. Leon Bear was reminded that in a previous meeting, which had been attended by a quorum, the General Council had passed a motion ordering Leon Bear to terminate the contract of purported Tribal attorney, Danny Quintana.

380. Leon Bear was asked in this meeting to account for Mr. Quintana's status.

381. Leon Bear stated that Danny Quintana would continue as the attorney for the Tribe, despite what the General Council or Tribal members wanted.

382. I have been present at meetings in the past, with BIA representatives present, where similar improper actions were taken.

383. When letters were written to the BIA by members, addressing these topics, no BIA corrective action ever resulted.

384. I observed that the BIA representative at this meeting took no particular interest in the improper activities that were ongoing in his presence, even when General Council members asked for his help or threatened to send further letters to the BIA office in Phoenix.

385. I discussed with other General Council members at that meeting that given Leon Bear's reliance on Danny Quintana's advice, his usurpation of power, his refusal to respond to the General Council, his use of PFS money to buy support, the lack of any Tribal court system, and the apparent indifference or connivance of the BIA, there was no recourse within the Tribe for members to redress their wrongs.

**Additional Examples of Leon Bear's Usurpation of
Power, Corruption, Suppression of Rights and Abuse**

386. Additional, specific examples of Leon Bear's usurpation of power, corruption, suppression of rights and abuse include:

387. Leon Bear and others, including Danny Quintana, acting as agents of PFS, have engaged in a longstanding, and blatant pattern of corruption and oppression against me, Margene Bullcreek, and others who would not support their improper and illegal actions. This pattern of abuse includes fundamental and serious criminal and civil violations of constitutional rights and the Indian Civil Rights Act.

388. For example, Leon Bear and his co-conspirators have for many years brought various unsupported accusations against Margene Bullcreek and he has taken away her money and privileges without any due process. I have been present when he has done this while refusing to

give her a chance to tell her side of the accusations or present evidence or witnesses of any kind.

389. Additionally, Leon Bear and his co-conspirators, including Danny Quentana interfere with Margene Bullcreek's right of peaceable assembly and will not let her have meetings in her home on the reservation.

390. For example, I was present during a recent attempt by Margene Bullcreek to have such a peaceable meeting. Leon's paid supporters showed up and disrupted the meeting, making slanderous statements and handed out pamphlets alleging past supposedly illegal actions and purported arrest records, and containing libelous material. The police came and caused a distraction. The police said they came at the request of Danny Quintana. Later Margene Bullcreek was improperly fined, and had money and privileges taken away, by Leon and his paid supporters, because of the meeting activities, without any hearing and without any opportunity to respond to the trumped up charges.

391. I testify that I have observed these civil rights violations and have personal knowledge that BIA officials, especially Superintendent Allison, are aware of them. Because of Leon Bear's usurpation of power, his refusal to respond to the General Counsel, his use of PFS money to buy support, the lack of any tribal court system, and the apparent indifference or connivance of the BIA, there is no recourse within the Tribe for Tribal members to redress their wrongs, and as of this date the BIA is still providing support to maintain this situation.

PFS is Culpable

392. As has been shown above, Leon Bear, Danny Quintana and others have been acting as agents of PFS in furthering PFS' overall discriminatory plan in an attempt to bypass a tribe's legitimate government and force the location of a high level nuclear waste facility on an

improperly targeted Indian reservation. As agents of PFS Leon Bear, Danny Quintana and others have engaged in unlawful and criminal behavior, and have violated the federal civil rights, Constitutional rights, and Indian civil rights of Tribal members, as documented herein.

393. Leon Bear, Danny Quintana and others have been well paid by PFS for their efforts. At a PFS meeting on the Reservation on February 3, 2001, which I attended, it was disclosed that regular payments to Leon Bear from PFS started in 1996 (well before the purported lease agreement was signed) which payments, as shown above, were part of the overall scheme of bribery and corruption.

394. PFS has known all along that the money given Leon Bear was funding the unlawful and criminal behavior (and not reaching the Tribe, see above) described herein because I and other members of the Tribal Council have repeatedly told PFS officials concerning these things, and discussed them in the presence of PFS officials, and the improper acts have occurred in front of PFS officials, in numerous meetings attended by PFS officials over the years. In any case PFS has been on notice since March of 1999, when I and other General Council members filed an action in federal court against PFS and the BIA, the merits of which action have not yet been decided and for which follow up legal actions are currently pending.

395. Despite this, PFS has chosen to continue to deal exclusively with Leon Bear, aiding and abetting his unlawful and criminal behavior, rather than deal with the Tribes legitimate government, or even directly with the Tribal General Council. PFS has so proceeded, knowing the funds were being diverted to Leon Bear's pocket for personal use and to fund these improper activities, and not reaching the Tribe, yet PFS has not attempted to set up project controls to ensure the money reached the Tribe.

396. Because of PFS' improper dealings, Leon Bear and his cohorts have grown rich, while the majority of the Goshutes living on the reservation remain in abject poverty, in inadequate housing, without working plumbing or adequate sewage facilities or weatherization, without reliable motor vehicles, with restricted education, and without meaningful employment opportunities. Some of the families have little or no utilities, going without adequate heat or any electricity for years.

397. PFS uses the statements of Leon Bear for everything when PFS knows Mr. Bear's statements are inaccurate and misleading because PFS has been to our meetings and talked with some of us. I have read the material PFS submitted to the NRC that was written by Mr. Bear and can testify of my own knowledge that the statements are inaccurate and misleading. In any case most of the issues are addressed herein.

398. Mr. Bear says putting nuclear facilities on reservations is a great idea, but most Native Americans are conservative about their traditions and especially about use of trust land. They prefer using the land for agriculture, livestock, and traditional purposes, and while there are parts of the earth suitable for waste, reservation land is too sacred for nuclear waste storage. I have been criticized because my reservation may soon have the PFS facility on it. Most native Americans think the federal government is going to allow this because we are Indians. It is perceived as a racial thing.

399. Reservation land will lose its value in the eyes of Native Americans and the only people who are allowed to use it will not want to. Native American move to the reservation for spiritual and traditional lifestyle reasons. No one will value any medicinal plants or agricultural crops or livestock produced adjacent to the storage facility. No religious ceremonies will be performed

here.

400. There may be ways of dealing with many of these issues, but PFS's scheme of dealing only with Mr. Bear has already harmed my tribe and my family. I hope that the NRC will investigate these issues and will work with me and the Tribal General Council to find mitigative measures.

I declare under penalty of perjury that the foregoing is true and correct.

Dated this 28th day of June 2001.

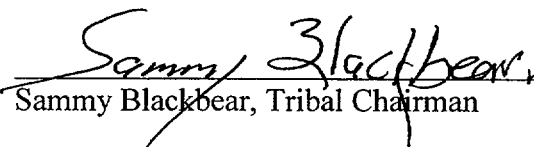

Sammy Blackbear, Tribal Chairman

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Exhibit W: Ann Potema, *Wasteland? Nuclear Storage Divides Goshutes*, The Daily Herald, Provo Utah, October 11, 1998, at A1 and A7.

Exhibit X: Lawrence Bear Letter to BIA Superintendent Perry Baker Dated June 8, 1994

Exhibit Y: Leon Bear's and PFS' April 1999 *Updates on the Temporary Spent Nuclear Fuel Storage Project*, Project Update, Private Fuel Storage

DECLARATION OF FRED PAYNE
JUNE 28, 2001

Fred Payne deposes, declares and states:

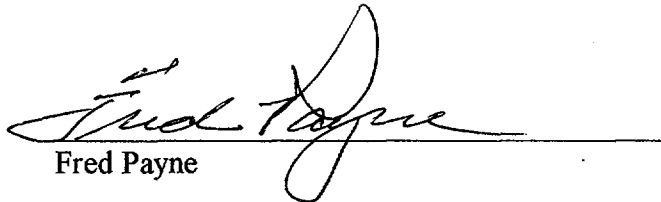
1. I am over 18 and am competent to testify as an expert concerning the matters set forth herein.
2. I have studied the material in the Declarations of Sammy Blackbear and Margene Bullcreek, have visited the Reservation and attended meetings with, and met on a personal basis with, a number of members of the Skull Valley Band Tribal General Council.
3. I have seen the sizeable modernized Reservation home of Leon Bear and observed the satellite dishes and numerous late model vehicles in his driveway.
4. I have seen the hovels and the very old broken down house trailers which house the families of most of the Goshutes who live on the Reservation. Many of those homes are without heat or electricity, and without working plumbing.
5. Other members of the Goshute Tribal General Council confirmed to me the Declarations of both Sammy Blackbear and Margene Bullcreek.
6. I have inspected the documents relevant to the issue of Leon Bear's legitimacy as Tribal leader and have discussed those issues with BIA officials. I believe that the rights of the Skull Valley Goshute Band have been abridged primarily due to the lack of appropriate actions, priorities and inadequate funding to assure appropriate actions by the BIA.
7. I am convinced that under the traditional form of government of the tribe, Sammy Blackbear has a legitimate claim as the Tribal leader and that by traditional process and policies, Leon Bear did not have proper authority to take the actions he has. I personally

believe that some of his actions constitute violations of federal civil rights statutes, including the Indian Civil Rights Act.

8. I am convinced that the improper use and unequal distribution of PFS project money has been, and continues to be, detrimental to the Tribe and is, in my opinion, an environmental justice related issue. The adverse effects on the Skull Valley Band and its Tribal General Council will undoubtedly compound, if appropriate project controls are not instituted.
9. Under the circumstances I have found the actions of PFS to be questionable at best, and I foresee a strong possibility of Congressional investigations of these and related matters. I strongly urge the NRC Board to conduct its own investigation and to hold public hearings.

I declare under penalty of perjury that the foregoing is true and correct.

Dated this 28th day of June, 2001.


Fred Payne

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

June 28, 2001

Before the Atomic Safety and Licensing Board

Private Fuel Storage, a Limited Liability Company;

(Independent Spent Fuel Storage Installation).

Docket No. 72-22
ASLBP No. 97-732-02-ISFSI
June 28, 2001

CERTIFICATE OF SERVICE

I hereby certify that copies of **OHNGO GAUDADEH DEVIA'S (OGD) RESPONSE TO PRIVATE FUEL STORAGE'S (PFS) MOTION FOR SUMMARY DISPOSITION, OHNGO GAUDADEH DEVIA'S (OGD) STATEMENT OF FACTS AT ISSUE, IN SUPPORT OF OGD'S RESPONSE TO PRIVATE FUEL STORAGE'S (PFS) MOTION FOR SUMMARY DISPOSITION and all supporting documents** (with the exception of the Exhibits to the declarations of Sammy Blackbear and Margene Bullcreek, which are not being served other than on the judges (and only by mail), subject to claims of confidentiality, safety and sovereignty more fully set forth in the cover letter accompanying these documents) were served on the persons listed below by e-mail (unless otherwise noted) with conforming copies by United States mail, first class, postage prepaid, this June 28, 2001.

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Office of the Secretary
Attn: Rulemakings and Adjudications Staff
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~~Samuel E. Shepley, Esq.~~

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

June 28, 2001

Before the Atomic Safety and Licensing Board

Private Fuel Storage, a Limited Liability Company;

(Independent Spent Fuel Storage Installation).

Docket No. 72-22
ASLBP No. 97-732-02-ISFSI
June 28, 2001

CERTIFICATE OF SERVICE

I hereby certify that copies of Ohngo Gaudadeh Devia's attorney's June 28, 2001 cover letter addressed to:

G. Paul Bollwerk III, Esq., Chairman Administrative Judge
Dr. Peter S. Lam, Administrative Judge
Dr. Jerry R. Kline, Administrative Judge
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Re: OGD Response to PFS Motion for Summary Disposition of OGD Contention O; Docket No. 72-22; ASLBP No. 97-732-02-ISFSI; Private Fuel Storage; (Independent Spent Fuel Storage Installation) and all documents referenced therein (with the exception of the Exhibits to the declaration of Sammy Blackbear which are not being served other than on the judges (and only by mail), subject to claims of confidentiality, safety and sovereignty more fully set forth in said cover letter) were served on the persons listed below by United States mail, first class, postage prepaid, this June 28, 2001.

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Dr. Peter S. Lam
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Office of the Secretary
Attn: Rulemakings and Adjudications Staff
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
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June 28, 2001

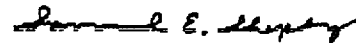
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