

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

G. Paul Bollwerk, III, Chairman
Dr. Jerry R. Kline
Dr. Peter S. Lam

In the Matter of

PRIVATE FUEL STORAGE, L.L.C.

(Independent Spent Fuel Storage Installation)

Docket No. 72-22-ISFSI

ASLBP No. 97-732-02-ISFSI

October 11, 2001

MEMORANDUM AND ORDER

(Schedule for Filings Relating to Representation
for Intervenor Skull Valley Band of Goshute Indians)

The Licensing Board is in receipt of a letter dated October 3, 2001, from three individuals identifying themselves as the recently elected tribal executive officers for the Skull Valley Band of Goshute Indians (Skull Valley Band). Included with the letter is a certificate of tribal election, dated September 27, 2001, signed by these individuals. On page two of their letter, noting that the Skull Valley Band is an intervening party to this proceeding, they declare:

For the time being, please deal exclusively with the new executive officers, or with the Tribal General Council sitting with a quorum, with respect to any matters affecting the Band. There are currently no other persons, entities or attorneys authorized to represent the Band in any matters.

We are currently unrepresented by legal counsel in this NRC proceeding and are considering who will represent the Band henceforth with respect to NRC licensing matters. We hereby request that a temporary hold be placed on all matters affecting the Band until the Band's interests can be effectively represented.

As reflected in the agency's rules of practice applicable to this proceeding, see 10 C.F.R. § 2.713(b), any person appearing in a representative capacity on behalf of a party to

a proceeding is to file a written notice of appearance that includes certain identifying information. It also is customary for someone who has entered such an appearance to file a notice of withdrawal if he or she no longer is acting in a representative capacity. In this instance, there is on file with the agency an August 8, 2001 notice of appearance on behalf of intervenor Skull Valley Band that was submitted by Tim Vollmann, Esq. As far as the Licensing Board is aware, Mr. Vollmann has not withdrawn his appearance on behalf of the Skull Valley Band. Moreover, apparently acting on behalf of the Skull Valley Band, Mr. Vollmann recently has submitted or authorized (1) a pending September 26, 2001 motion for protective order requesting that certain exhibits attached to a June 28, 2001 response by intervenor Ohngo Gaudadeh Devia (OGD) to the May 25, 2001 motion of applicant Private Fuel Storage, L.L.C., (PFS) for summary disposition of contention OGD O, Environmental Justice Issues Are Not Addressed, be afforded confidential, nonpublic status; and (2) a September 28, 2001 joint report on the status of the pending federal lawsuit Skull Valley Band v. Leavitt.

Under the circumstances, there appears to be some question regarding the current representation of intervenor Skull Valley Band, as well as the status of its pending motion for protective order and, possibly, the recent joint litigation report. Accordingly, the Board directs that on or before Wednesday, October 24, 2001, it be provided with the following:

1. A notice of withdrawal by Mr. Vollmann or a submission from him explaining his current status as counsel for the Skull Valley Band in this proceeding.
2. Absent a notice of withdrawal by Mr. Vollmann, a filing by the authors of the October 3, 2001 letter or their representative/counsel, who shall enter a notice of appearance in accordance with section 2.713(b), indicating their position regarding Mr. Vollmann's status as counsel for the Skull Valley Band.

3. In the absence of a notice of appearance by a representative/counsel appearing on behalf of the authors of the October 3, 2001 letter, a submission indicating if, and specifying when, they anticipate retaining such a representative/counsel.
4. A joint report from the parties involved with the pending protective order motion and/or the federal court litigation status report outlining whether there has been any change regarding their previously expressed positions relative to the pending Skull Valley Band motion for protective order or the status of the pending federal court litigation.

As has been the requirement in this proceeding, in addition to service of paper copies by first class mail, these submissions should be served by e-mail or facsimile transmission upon the Office of the Secretary (SECY), the Licensing Board members, and the other parties to the proceeding on the date of filing.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD*

/RA/

G. Paul Bollwerk, III
ADMINISTRATIVE JUDGE

Rockville, Maryland

October 11, 2001

* Copies of this memorandum and order were sent this date by Internet e-mail or facsimile transmission to (1) applicant PFS; (2) intervenors Skull Valley Band, OGD, Confederated Tribes of the Goshute Reservation, Southern Utah Wilderness Alliance, and the State of Utah; and (3) the NRC staff.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
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PRIVATE FUEL STORAGE L.L.C.) Docket No. 72-22-ISFSI
)
(Independent Spent Fuel Storage)
Installation))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB MEMORANDUM AND ORDER (SCHEDULE FOR FILINGS RELATING TO REPRESENTATION FOR INTERVENOR SKULL VALLEY BAND OF GOSHUTE INDIANS) have been served upon the following persons by deposit in the U.S. mail, first class, or through NRC internal distribution.

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Docket No. 72-22-ISFSI
LB MEMORANDUM AND ORDER (SCHEDULE
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FOR INTERVENOR SKULL VALLEY BAND OF
GOSHUTE INDIANS)

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[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 11th day of October 2001