

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

OHNGO GAUDADEH DEVIA
Petitioner,

v.

UNITED STATES NUCLEAR REGULATORY
COMMISSION and the

UNITED STATES OF AMERICA
Respondents.

No. 02-9583

**NOTICE OF INTERVENTION BY
PRIVATE FUEL STORAGE, L.L.C.**

Private Fuel Storage, L.L.C. ("PFS") respectfully provides notice, pursuant to 28 U.S.C. § 2348, Rule 15(d) of the Federal Rules of Appellate Procedure, and Circuit Rule 15.2(A), of intervention in the above-entitled action as a respondent in support of the agency order. In support of this notice, PFS states the following:

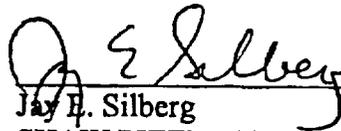
Petitioner Ohngo Gaudadeh Devia ("OGD") has commenced this action to seek review of an interlocutory order issued by the United States Nuclear Regulatory Commission ("NRC") reversing its Atomic Safety and Licensing Board's partial denial of summary disposition on OGD's environmental justice contention, OGD O, and directing the Board to grant summary disposition for PFS on OGD O.¹ PFS is an original party in the NRC proceeding below and is the applicant for the license being challenged in that proceeding by OGD.

PFS is entitled to intervene as a matter of right, because PFS both is a party in interest in the proceeding before the NRC, and has interests that would be affected if the NRC order were enjoined, set aside, or suspended. 28 U.S.C. § 2348. In 1997, PFS applied to the NRC for a

¹ Private Fuel Storage, L.L.C. (Independent Spent Fuel Storage Facility), CLI-02-20, 56 NRC ___ (Oct. 1, 2002).

license to construct and operate an independent spent fuel storage facility in Skull Valley, Utah. See Nuclear Regulatory Commission, Docket No. 72-22, "Notice of Consideration of Issuance of a Materials License for the Storage of Spent Fuel and Notice of Opportunity for a Hearing," 62 Fed. Reg. 41099 (1997). The proceeding below pertains to this application and directly affects PFS's ability to commence construction and subsequently operate the facility. Until the NRC license is issued, PFS cannot commence construction or operation and hence cannot receive a return on its considerable investment to date or obtain the benefits which the facility will generate. Thus, PFS has substantial, direct, and tangible interests in the timely ultimate resolution of this proceeding.

Respectfully submitted,



Jay E. Silberg
SHAW PITTMAN
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(202) 663-8063
Counsel For Private Fuel Storage, L.L.C.

Dated: December 11, 2002

UNITED STATES COURT OF APPEALS
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Entry of Appearance and Certificate of Interested Parties

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INSTRUCTIONS: COUNSEL FOR A PARTY MUST FORTHWITH EXECUTE AND FILE THIS FORM, TOGETHER WITH PROOF OF SERVICE ON ALL OTHER PARTIES. IF THE CERTIFICATE OF INTERESTED PARTIES ON THE REVERSE OF THIS FORM IS COMPLETED, AN ORIGINAL AND THREE COPIES MUST BE FILED. MULTIPLE COUNSEL APPEARING FOR A PARTY OR PARTIES AND WHO SHARE THE SAME MAILING ADDRESS MAY ENTER THEIR APPEARANCES ON THE SAME FORM BY AFFIXING THEIR INDIVIDUAL SIGNATURES.

In accordance with 10th Cir. R. 46.1, the undersigned attorney hereby appears as counsel for Private Fuel Storage, L.L.C., Appellee/Respondent, in the subject case.

Further, in accordance with 10th Cir. R. 46.1(C), the undersigned certifies as follows: (Check one.)

- Attached to this form is a completed certificate of interested parties and/or attorneys not otherwise disclosed, who are now or have been interested in this litigation or any related proceeding. (File original and three copies.)
- There are no such parties, or any such parties have heretofore been disclosed to the court. (File original only.)

Jay E. Silberg

Name of Counsel



Signature of Counsel

2300 N St. NW, Washington, DC 20037
(202) 663-8063

Mailing Address and Telephone Number

Name of Counsel

Signature of Counsel

Mailing Address and Telephone Number

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Certificate of Interested Parties

The following are parties to this litigation, including persons or other entities financially interested in the outcome of the litigation, but not revealed by the caption on appeal, see 10th Cir. R. 46.1(C), and attorneys not entering an appearance in this court who have appeared for any party in prior trial or administrative proceedings sought to be reviewed, or in related proceedings that preceded the subject action in this court:

(Attach additional pages if necessary.)

Members of Private Fuel Storage, L.L.C. ("PFS"). Court Rule 46.1(C)(2).

Northern States Power Company doing business as Xcel Energy;
Genoa FuelTech, Inc.;
Indiana Michigan Power Company;
Southern California Edison Company;
Southern Nuclear Operating Company, Inc.;
GPU Nuclear, Inc.;
Entergy Nuclear Indian Point 2, L.L.C.;
Florida Power and Light Company.

Attorneys not appearing in this Tenth Circuit case, but having a current interest in the related NRC proceedings. Court Rule 46.1(C)(4).

For PFS: Matias F. Travieso-Diaz, Paul A. Gaukler, D. Sean Barnett, Douglas J. Rosinski, and Blake J. Nelson.

For the State of Utah: Denise Chancellor, Connie Nakahara, Fred G Nelson, Diane Curran, James R. Soper, Laura Lockhart, Monte N. Stewart, Helen A. Frohlich

For Southern Utah Wilderness Alliance: Joro Walker

For the Skull Valley Band of Goshute Indians: Tim Vollmann

For the Confederated Tribes of the Goshute Reservation: John Paul Kennedy, Sr., David W. Tufts

For the Nuclear Regulatory Commission: Catherine L. Marco, Sherwin E. Turk



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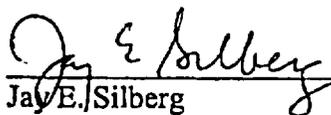
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**PRIVATE FUEL STORAGE, L.L.C.'s
CORPORATE DISCLOSURE STATEMENT**

Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure, Private Fuel Storage, L.L.C. ("PFS") submits this Corporate Disclosure Statement. PFS is a Delaware limited liability company, whose members are eight electric utility companies (or affiliates thereof): Northern States Power Company doing business as Xcel Energy; Genoa FuelTech, Inc.; Indiana Michigan Power Company; Southern California Edison Company; Southern Nuclear Operating Company, Inc.; GPU Nuclear, Inc.; Entergy Nuclear Indian Point 2, L.L.C.; and Florida Power and Light Company. No other publicly held company has 10 percent or more equity interest in PFS.

Respectfully submitted,



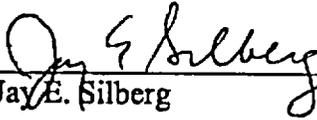
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Counsel For Private Fuel Storage, L.L.C.

Dated: December 11, 2002

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