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OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Michael C. Farrar, Chairman
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dr. Peter S. Lam
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dr. Jerry R. Kline
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

G. Paul Bollwerk, III
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

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

Dear Administrative Judges:

By Memorandum and Order dated December 10, 2001, Judge Bollwerk, for the Board, addressed an October 24, 2001, submission by a group identifying itself as the new tribal leadership of intervenor Skull Valley Band of Goshute Indians, and also my objections to that submission, as counsel for the Skull Valley Band. The failure of that group to respond in any way to a Board directive led the Board to discontinue the temporary courtesy of providing same day service of Board issuances to the group. However, because the group was placed on the Office of the Secretary's service list for this proceeding, paper copies of those issuances, and Orders of the Commission, continued to be mailed to the group. For the two years since that Memorandum and Order, the Board's and Commission's Certificate of Service list has included that group, self-described as:

Marlinda Moon, Chairman
Sammy Blackbear, Vice-Chairman
Miranda Wash, Secretary
Skull Valley Band of Goshute Indians
P.O. Box 511132
Salt Lake City, UT 84151-1132

As explained below, there remains absolutely no basis for listing these three individuals on the Certificate of Service as the leaders of the Skull Valley Band. Moreover, this listing has the potential of creating confusion among the news media and the general public on the subject of the leadership of the Band. The Band has recently received inquiries indicating such confusion. Thus, I respectfully suggest that the Board's and Commission's Certificate of Service be revised to delete the above-referenced address. I do not object to courtesy mailings of Board and Commission issuances to any interested person, but the description in the Certificate of Service of these three persons as leaders, or in any representative capacity, of the Skull Valley Band is inaccurate, misleading, and confusing. The listing of this group in the Certificate of Service with a "Skull Valley Band" address, even if the words "Chairman", "Vice-Chairman", and "Secretary" were deleted, would perpetuate the confusion, as no other members of the Band are individually listed in the Certificate of Service.

This suggestion should not be read as requesting the Board or the Commission to make any determination regarding the leadership of the Skull Valley Band. In its Memorandum and Order of October 1, 2002, in this proceeding (CLI-02-20), the Commission ruled correctly that the Board cannot lawfully intervene in an internal tribal dispute. *Id.*, at 17. I am simply suggesting that the Certificate of Service for Board and Commission issuances not create the appearance that it is treating the aforesaid group as representing the Skull Valley Band.

Furthermore, there is no basis for treating that group as the Band's leaders or representatives. The Department of the Interior continues to recognize Chairman Leon Bear as the Band's leader. As stated in a May 24, 2002, letter to Chairman Bear from the Assistant Secretary for Indian Affairs (attached here), the Department of the Interior continue[s] to recognize Leon D. Bear as the Chairman and Ms. Lori Skiby as the Vice-chairman", consistent with an earlier letter from the BIA acting Agency Superintendent.¹ Thus, the identification of the three persons listed in the Certificate of Service as representing the Skull Valley Band is based solely on their description of themselves as the Chairman, Vice-Chairman, and Secretary of the Band.

Sincerely,



Tim Vollmann

Counsel for the Skull Valley Band
of Goshute Indians

cc: Office of the Secretary, Nuclear Regulatory Commission
All individuals listed on the Board's Certificate of Service in Docket 72-22-ISFSI

¹ Ohngo Gaudadeh Devia (OGD), an intervenor in this proceeding, along with Margene Bullcreek, and Lisa Bullcreek, filed an administrative appeal of the Superintendent's letter. On November 14, 2002, the BIA Western Regional Director affirmed the Superintendent's letter. OGD and the Bullcreeks then filed a further administrative appeal to the Interior Board of Indian Appeals (No. 03-46-A) which is still pending. The pendency of this appeal provides no basis for the erroneous listing of the aforesaid group as representative of the Skull Valley Band.



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

MAR 24 2002

Honorable Leon D. Bear
Chairman, Executive Committee
Skull Valley Band of Goshute Indians, #808
3359 South Main Street
Salt Lake City, Utah 84115

Dear Chairman Bear:

Thank you for your letter of April 25, 2002, informing us of the alleged theft of tribal funds and providing us with information regarding the position of banks holding other funds of the Skull Valley Band of Goshute Indians (Band).

Generally, we rely upon the Bureau of Indian Affairs (BIA) Regional Directors to carry out the government-to-government relations with the federally recognized Indian tribes, which includes the Band. However, in response to the dubious "court order (issued by an entity, that we are not familiar with, namely the "First Federal District Court, Western Region"), we contacted the Agency Superintendent, Uintah & Ouray Agency, Ft. Duchesne, Utah, in late September 2001 to obtain his perspective as the BIA line official closest to the Band.

We were advised then, and have been advised consistently since that time, that the BIA Agency office at Fort Duchesne recognizes you, Leon D. Bear, as the Chairman and Ms. Lori Skiby as the Vice-chairman of the Executive Committee for the Band. In January 2002, in response to a general request to update our tribal leaders directory, the BIA Western Region office in Phoenix, Arizona, again identified you, Leon D. Bear, as the recognized chairman of the Band. We have not been informed of any change in leadership and continue to recognize Leon D. Bear, as the Chairman and Ms. Lori Skiby as the Vice-chairman. We are aware that a March 25, 2002, letter from acting Agency Superintendent Allen J. Anspach reconfirms your status and that of Ms. Skiby as the recognized Band leadership.

We agree that it is important that congressionally appropriated Federal funds transferred to the Band for purposes of implementing Indian Self Determination contracts under provision of the 1975 Indian Self Determination and Education Assistance Act, Pub. L. 93-638, 25 U.S.C. 450 et seq., as amended, be released to the Band in order for the tribe to perform the agreed upon scope of work and carry out the purposes for which Congress appropriated the funds. We also agree that the banks holding tribal funds are

obliged to perform in accordance with the Depositor's Agreement and applicable provisions of the Uniform Commercial Code as codified in the laws of the state, and are dismayed to learn of the wrongful disbursement of tribal funds to unauthorized individuals in reliance upon a fictitious and possibly fabricated "court order."

We agree that it is proper for you, as the recognized Chairman of the Band to demand the release of the Band's funds from the banks for the purposes of tribal administration and for the administration of BIA education and community services programs contracted under Pub. L. 93-638 to provide assistance to members of the Band and other eligible Indians. We feel that it is improper for the subject banks to continue to withhold funds from the recognized, elected leadership of the Band. Unless the banks reach an accommodation forthwith with the Band, we intend to support the Band's Motion for Summary Judgment in *Skull Valley Band of Goshute Indians v. Zions Bank, et al.*, No. 2:01-CV-813 S. U.S. District Court, District of Utah, if such a motion is filed.

Sincerely,



Assistant Secretary - Indian Affairs

cc. Regional Director, Western Region

Zions Bank c/o Robert Goodman
10 East Temple, 5th Floor
Salt Lake City, Utah 84111

Brighton Bank c/o David E. Worthen
7101 Highland Drive
Salt Lake City, Utah 84121

Bank One c/o Brad Baldwin
50 West Broadway, Suite 300
Salt Lake City, Utah 84101