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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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March 21, 2005 (3:35pm)

Before the Commission

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

In the Matter of	)	
	)	
PRIVATE FUEL STORAGE L.L.C.	)	Docket No. 72-22
	)	
(Private Fuel Storage Facility)	)	ASLBP No. 97-732-02-ISFSI

**SKULL VALLEY BAND's COMMENTS  
SUPPORTING ISSUANCE OF  
AN IMMEDIATELY EFFECTIVE LICENSE**

The Atomic Safety and Licensing Board's Partial Initial Decision of February 24, 2005, left for the Commission the question whether to issue a license. This Responds to the Commission's invitation to the parties in its Order of February 28, 2005, to file their comments on whether the Commission should direct issuance of an immediately effective license under 10 CFR § 2.764(c).

The Skull Valley Band of Goshute Indians supports the issuance of an immediately effective license. It has been nearly eight years since the Skull Valley Band entered into an amended lease with Private Fuel Storage, LLC (PFS), for the site of the spent nuclear fuel storage facility which has been the subject of these licensing proceedings. Contrary to numerous public statements by opponents of this project, in 1996-97 a large majority of the General Council of the Band authorized the Executive Committee of the Band to sign the lease. See Exhibit AA to the Skull Valley Band's

Brief Seeking Reversal of the ASLB's Decision of February 22, 2002 (LBP-02-08), on OGD Contention O (Opening Brief, April 5, 2002.)

Under the terms of the amended lease, PFS may not begin construction of the storage facility until the Secretary of the Interior certifies that certain conditions have been met, primarily including the issuance of a license by the Commission. See Utah v. Dept. of the Interior, 210 F.3d 1193, 1995 (10th Cir. 2000). Once construction of the facility begins, revenues and jobs in Skull Valley will increase measurably. When commercial operations begin, there will be a substantial increase in revenues under the lease. See Declaration of John D. Parkyn, attached to Applicant's Comments.

Yet the State of Utah justifies further delay in the issuance of a final license decision by the Commission on the very ground that the Band and PFS must seek final action by the Department of the Interior. Utah's Comments at page 13. This is delay for its own sake. Whatever questions remain in connection with the lease are questions which the Department of the Interior and the Bureau of Indian Affairs are authorized to resolve, not the Commission. See the Commission's Memorandum and Order (CLI-02-20) at pp. 17-18. But until the Commission has made its decision on the issuance of the license, this matter will not be presented to the Secretary of the Interior.

The Skull Valley Band has been closely following the ASLB proceedings for the necessary assurances that the PFS project will be safe. The Board's Partial Initial Decision has answered that question in the affirmative. The people of the Skull Valley Band have been waiting a very long time for this project. There is no need for further delay.

The Utah media have recently been full of reports on how the new Governor, the State Legislature, and the Utah Congressional delegation intend to take steps to block this project. We have all heard this before. See Skull Valley Band v. Neilson, 376 F.3d 1223 (10th Cir. 2004), *affirming* Skull Valley Band v. Leavitt, 215 F.Supp.2d 1232 (D.Utah. 2002), *petition for cert. pending*; Bullcreek v. NRC, 359 F.3d 536 (D.C.Cir. 2004). The State of Utah will never cease trying to reopen every issue.

The Skull Valley Band encourages the Commission to direct the issuance of an immediately effective license. The Goshute people have waited long enough.

Respectfully submitted,



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#### CERTIFICATE OF SERVICE

I hereby certify that copies of the Skull Valley Band's Comments Supporting Issuance of an Immediately Effective License were served on the persons listed below (unless otherwise noted) by e-mail with conforming copies by U.S. mail, first class, postage prepaid, this 14<sup>th</sup> day of March, 2005.

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