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**UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

OHNGO GAUDADEH DEVIA,  
Petitioner,  
v.  
UNITED STATES NUCLEAR REGULATORY  
COMMISSION, and the  
UNITED STATES OF AMERICA,  
Respondents.

No. 05-1419  
05-1420 Consolidated

STATE OF UTAH,  
Petitioner,  
v.  
UNITED STATES NUCLEAR REGULATORY  
COMMISSION, and the  
UNITED STATES OF AMERICA,  
Respondents.

**MOTION TO INTERVENE  
BY THE SKULL VALLEY BAND OF GOSHUTE INDIANS**

The Skull Valley Band of Goshute Indians respectfully moves to intervene, pursuant to 28 U.S.C. § 2348, Rule 15(d) of the Federal Rules of Appellate Procedure, and Circuit Rule 15(b), in the above-entitled action as a respondent in support of the Orders of the Nuclear Regulatory Commission (NRC). In support of this motion, the Skull Valley Band states:

Petitioners Ohngo Gaudadeh Devia (OGD) and the State of Utah have commenced this consolidated action to seek review of various orders issued by the NRC in a proceeding to consider the 1997 application of Private Fuel Storage, LLC (PFS), to build and operate a facility for the temporary storage of spent nuclear fuel on the Skull Valley Indian Reservation in the Utah West Desert. Another NRC Order in that proceeding was the subject of two consolidated Petitions for Review before this Court, which were denied in February 2004. Bullcreek v. NRC, 359 F.3d 536 (D.C. Cir. 2004).

The Skull Valley Band is a federally-recognized Indian Tribe, and the beneficial owner of the tribal lands where the proposed storage facility would be constructed and operated. In 1996 PFS entered into a long-term lease of those lands with the Skull Valley Band. An amended lease was approved by the Bureau of Indian Affairs on May 23, 1997. The PFS lease contains conditions on the construction and operation of the storage facility, one condition being the issuance of the license by the NRC. *See generally* Utah v. U.S. Dept. of the Interior, 210 F.3d 1193 (10th Cir. 2000). Because of the substantial benefits which the Skull Valley Band would receive under the PFS lease, once the delivery of spent nuclear fuel begins, the Band intervened in the NRC proceeding in support of the PFS application for a license. The Band was also granted intervenor status in this Court in 2003 in the

aforementioned proceeding involving two Petitions for Review of an NRC Order on the PFS licensing application.

The Skull Valley Band is entitled to intervene in this action as a matter of right under 28 U.S.C. § 2348, because it is a party in interest in the NRC proceeding, and because it has interests that would be affected if any of the challenged NRC Orders were enjoined, set aside, or suspended.

Thus, the Band has substantial, direct and tangible interests in the licensing proceeding and the subject Petitions for Review, and other parties cannot adequately protect the tribal governmental interests of the Band. Therefore, the Skull Valley Band's Motion to Intervene in this proceeding should be granted.

Respectfully submitted,



Tim Vollmann  
Attorney at Law  
Attorney for Skull Valley Band  
of Goshute Indians

Dated: December 4, 2005

CERTIFICATE OF SERVICE

I hereby certify that true copies of the Skull Valley Band's foregoing Motion to Intervene were served upon the following persons on December 5, 2005, by commercial overnight delivery service to the following addresses:

<p>Roy T. Englebort, Jr., Esq. Robbins, Russell, Englebort, Orseck &amp; Untereiner LLP Attorneys for the State of Utah 1801 K Street, N.W., Suite 411 Washington, D.C. 20006</p>	<p>Mark L. Shurtleff, Attorney General c/o Denise Chancellor, Asst. Atty. Gen. Attorneys for the State of Utah Utah Attorney General's Office 160 East 300 South, 5<sup>th</sup> Floor Salt Lake City, UT 84111</p>
<p>Alberto Gonzales, Esq. Attorney General of the United States U.S. Department of Justice 950 Pennsylvania Ave., N.W. Washington, DC 20530</p>	<p>John F. Cordes, Jr., Esq., Solicitor Office of General Counsel U.S. Nuclear Regulatory Commission Washington, DC 20555-0001</p>
<p>Paul C. EchoHawk, Esq. EchoHawk Law Offices Attorneys for Ohngo Gaudadeh Devia 151 N. 4<sup>th</sup> Avenue, Suite A Pocatello, ID 83201</p>	<p>Jay E. Silberg, Esq. Pillsbury Winthrop Shaw Pittman, LLP Attorneys for Private Fuel Storage, LLC 2300 N. Street, N.W. Washington, DC 20037</p>

  
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