

No. 05-1419

Consolidated with 05-1420, 06-1087

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

OHNGO GAUDADEH DEVIA,
Petitioner

v.

NUCLEAR REGULATORY COMMISSION and
UNITED STATES OF AMERICA,
Respondents

PRIVATE FUEL STORAGE, L.L.C. and
SKULL VALLEY BAND OF GOSHUTE INDIANS,
Intervenors

On Petitions for Review of Orders and a License of the
Nuclear Regulatory Commission

2ND REPORT ON STATUS OF ACTION FILED TO CHALLENGE

DECISIONS OF THE DEPARTMENT OF THE INTERIOR

DENYING APPROVAL OF LEASE AND RIGHT-OF-WAY

TIM VOLLMANN
3301-R Coors Rd. NW #302
Albuquerque, NM 87120
Attorney for Skull Valley Band
of Goshute Indians

JAY E. SILBERG
PAUL A. GAUKLER
PILLSBURY WINTHROP SHAW
PITTMAN LLP
2300 N Street, N.W.
Washington, DC 20037
Attorneys for Private Fuel Storage

This Court's Order of June 26, 2007, requires the parties, including the Intervenors, to file a report within 120 days from the date of the Order, and every 120 days thereafter, on the status of any action challenging the Department of Interior's denial of either the lease between the Skull Valley Band of Goshute Indians ("the Band") and Private Fuel Storage, L.L.C. ("PFS") or the requested right-of-way across public land regarding the facility at issue in this case. The first such report was filed on October 24, 2007, reporting that the Band and PFS filed suit on July 17, 2007, in the U.S. District Court for the District of Utah against officials of the U.S. Department of the Interior, challenging the two adverse Interior decisions of September 7, 2006. Skull Valley Band, et al. v. Cason, et al., No. 2:07-cv-526 TC [hereinafter, the Utah action.]. Pursuant to this Court's Order of June 26, 2007, Intervenors now file the following 2nd Report on behalf of the parties. The other parties, the State of Utah, Ohngo Gaudadeh Devia, the Nuclear Regulatory Commission, and the United States of America, join in this report.

On October 31, 2007, the parties to the Utah action filed a Joint Litigation Plan with the Court, and it was signed by Judge Campbell on November 2, 2007. That Litigation Plan called for the filing of the agency's

administrative record by December 21, 2007. On December 20, 2007, the agency filed a Motion for an Extension of Time to file the administrative record by February 1, 2008. Plaintiffs (the Band and PFS) opposed the motion, but the motion was granted by the magistrate judge on January 7, 2008.

Most of the administrative record in the Utah action was filed and served on February 1, 2008; the remainder of the record was filed on February 8, 2008. The revised schedule now provides that plaintiffs must file any discovery requests and/or a motion to supplement the record by February 29, 2008. The schedule also provides that plaintiffs' brief on the merits is due on March 21, 2008; the agency response is due April 18, 2008, and plaintiffs' reply is due on May 2, 2008. However, that briefing schedule is dependent upon early resolution of issues with regard to the appropriate contents of the administrative record, and whether any discovery is warranted.

Respectfully submitted,

*Tim Vollmann by
Paul Gaukler*

Tim Vollmann
Attorney for Skull Valley Band of
Goshute Indians

Paul Gaukler

Jay E. Silberg
Paul A. Gaukler
Pillsbury Winthrop Shaw Pittman LLP
Attorneys for Private Fuel
Storage, L.L.C.

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

OHNGO GAUDADEH DEVIA, et al.,)	
Petitioners,)	
)	
v.)	No. 05-1419, 05-1420
)	06-1087
UNITED STATES NUCLEAR)	(consolidated)
REGULATORY COMMISSION and the)	
)	
UNITED STATES OF AMERICA,)	
Respondents.)	
)	

CERTIFICATE OF SERVICE

I hereby certify that true copies of the foregoing “2nd Report on Status of Action Filed To Challenge Decisions of the Department of the Interior Denying Approval of Lease and Right-of-Way” were served upon the following by United States mail, first class, postage prepaid, on the 21st day of February, 2008:

John F. Cordes, Jr., Esq.
Solicitor, Office of the General
Counsel
U.S. Nuclear Regulatory
Commission
Washington, DC 20555-0001

Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue
Washington, DC 20530

Office of the Secretary
U.S. Nuclear Regulatory
Commission
Washington, DC 20555-0001

Paul EchoHawk, Esq.
EchoHawk Law Offices
151 North 4th Avenue, Suite A
P.O. Box 6119
Pocatello, ID 83205-6119

Martin G. Malsch
Attorney for Appellants
Egan, Fitzpatrick, Malsch & Cynkar,
PLLC
8300 Boone Boulevard, Suite 340
Vienna, VA 22182

Michael A. Bauser
Nuclear Energy Institute
1776 I Street, N.W., Suite 400
Washington, DC 20006-3708
Amici Curiae

Dated: February 21, 2008

Tim Vollmann, Esq.
Skull Valley Band of Goshute Indians
3301-R Coors Road, N.W.
Suite 302
Albuquerque, NM 87120

Roy T. Englert, Jr.
Noah A. Messing
Robbins, Russell, Englert, Orseck &
Untereiner, LLP
1801 K Street, N.W., Suite 411
Washington, DC 20006

Mark L. Shurtleff, Attorney General
Denise Chancellor, Asst. Attorney General
Fred G. Nelson, Asst. Attorney General
James R. Soper, Asst. Attorney General
Connie Nakahara, Special Asst. Attorney
General
Attorneys for the State of Utah
Utah Attorney General's Office
160 East 300 South, 5th Floor
P.O. Box 140873
Salt Lake City, UT 84114-0873


Paul A. Gaukler