

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

27th REPORT ON STATUS OF REMANDED ACTIONS TO
THE DEPARTMENT OF THE INTERIOR FOR APPROVAL
OF LEASE AND RIGHT-OF-WAY APPLICATION

JAY E. SILBERG
PAUL A. GAUKLER
PILLSBURY WINTHROP SHAW
PITTMAN LLP
1200 Seventeenth Street, N.W.
Washington, DC 20036-3006
Attorneys for Private Fuel Storage, LLC

BACKGROUND

This Court's Order of June 26, 2007 required the parties, including the Intervenor Skull Valley Band of Goshute Indians ("the Band") and Private Fuel Storage, L.L.C. ("PFS"), 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 ("the Department") denial of either the lease between the Band and PFS or the requested right-of-way across public land regarding the facility at issue in this case. The Court's June 26, 2007 Order also required the parties, including the Intervenor, to file motions to govern future proceedings in this case within 30 days of the disposition of any action challenging either the denial of lease or the denial of a right-of-way.

The first status report, filed on October 24, 2007, reported that the Band and PFS filed suit in July 2007, in the U.S. District Court for the District of Utah against officials of the Department, challenging the two adverse Department decisions. Skull Valley Band, et al. v. Cason, et al., No. 2:07-cv-526 TC.

On July 26, 2010, the Utah District Court vacated both denials and remanded the right-of-way application and the lease to the Department for

further consideration consistent with the court's decision. Skull Valley Band of Goshute Indians v. Davis, 728 F. Supp. 2d 1287 (D. Utah 2010).

On November 15, 2010, this Court in response to the parties' joint motion entered an Order holding this case in abeyance pending further order of the Court and directing the parties, including the Intervenor, to file status reports on December 23, 2010, and every 120 days thereafter, on the remanded right-of-way application and lease approval.

Pursuant to this Court's Order of November 15, 2010, Intervenor now file the following twenty-seventh status report on behalf of the parties.¹ The State of Utah, the Nuclear Regulatory Commission, and the United States of America join in this report.

TWENTY-SEVENTH STATUS REPORT

Since the 26th Status Report of March 30, 2016, no further official action has occurred on the remanded right of way application or lease approval. PFS and the Band are continuing negotiations concerning continuation of the project.

¹ Lee Bergen, counsel for the Band, has authorized PFS counsel to file this report on the Band's behalf.

Respectfully submitted,

/s/ Jay E. Silberg

Jay E. Silberg

Paul A. Gaukler

Pillsbury Winthrop Shaw Pittman LLP

Attorneys for Private Fuel Storage, L.L.C.

No. 05-1419

Consolidated with 05-1420, 06-1087

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

OHNGO GAUDADEH DEVIA, et al.,
Petitioners,

v.

UNITED STATES NUCLEAR
REGULATORY COMMISSION, and the
UNITED STATES OF AMERICA,
Respondents.

CERTIFICATE OF SERVICE

I hereby certify that true copies of the foregoing "27th Report on Status of Remanded Action to Department of Interior for Approval of Lease and Right-of-Way Application" were served upon the following by United States mail, first class, postage prepaid, on the 28th day of July, 2016.

Andrew Averbach, 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, NW
Washington, DC 20530

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

Lee Bergen
Bergen Law Offices, LLC
4110 Wolcott Avenue NE, Suite A
Albuquerque, NM 87109

Martin G. Malsch
Attorney for Appellants
Egan Fitzpatrick Malsch &
Lawrence PLLC
1750 K Street, N.W., Suite 350
Washington, DC 20006

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

Ellen Ginsberg
Anne Cottingham
Nuclear Energy Institute
1201 F Street, N.W.
Suite 1100
Washington, DC 20004
Amici Curiae

Sean Reyes, Attorney General
Fred G. Nelson, Asst. Attorney General
James R. Soper, Asst. Attorney General
Connie Nakahara, Special Assistant
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

Dated: July 28, 2016

/s/ Jay E. Silberg
Jay E. Silberg