



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

September 24, 1999

OFFICE OF THE
GENERAL COUNSEL

Jay Silberg, Esq.
Shaw, Pittman, Potts & Trowbridge
2300 N Street, N.W.
Washington, D.C. 20037-8007

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

Dear Mr. Silberg:

Pursuant to your request, enclosed is a copy of a letter that the NRC Staff received from John Paul Kennedy, Esq., dated September 8, 1999, concerning Mr. Leon Bear's representation of the Skull Valley Band of Goshute Indians in connection with the Independent Spent Fuel Storage Installation proposed to be constructed by Private Fuel Storage, L.L.C. ("PFS") on the Band's reservation.

In our conversation yesterday, you informed me that you have not received a copy of this letter, although it indicates that copies were served on the PFS Service List. Mr. Kennedy confirmed to me this morning that he transmitted copies to the service list, and I have ascertained that a copy was received by the Licensing Board. Apparently, some error must have occurred in the transmittal or receipt of your copy.

I would be interested in receiving your views concerning this matter. Please contact me after you have had an opportunity to discuss the enclosed letter with your client.

Sincerely,

A handwritten signature in cursive script that reads "Sherwin E. Turk".

Sherwin E. Turk
Counsel for NRC Staff

Enclosure: As stated
cc w/out Encl.: Service List

JOHN PAUL KENNEDY, P.C.
ATTORNEY AT LAW
1385 YALE AVENUE
SALT LAKE CITY, UTAH 84105
TELEPHONE (801) 583-6170
TELEFAX (801) 581-1007

September 8, 1999

Catherine L. Marco
Sherwin E. Turk
Office of the General Counsel
Mail Stop O-15 B18
U. S. Nuclear Regulatory Commission
Washington, D.C. 20555

Re: Possibly false and misleading information
regarding "host community"
Docket No. 72-22-ISFSI

Dear Staff:

I have recently become aware of evidence which I believe reflects serious conflicts with evidence which has been presented to and is being relied upon by the Licensing Board in this matter.

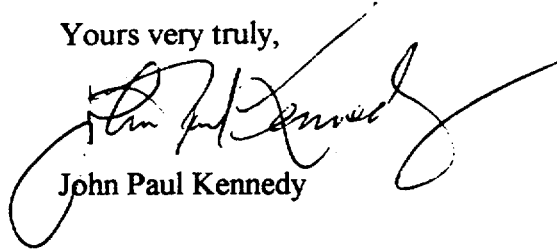
I am enclosing a copy of a letter signed by Leon Bear and submitted as evidence in the above proceeding by the Applicant. Mr. Bear claims to be the Chairman of the Skull Valley Band and its Executive Committee and further claims to have been authorized by his Tribe to execute the purported lease agreement for the ISFSI site in this matter.

I am also enclosing a declaration signed by Mr. Bear which was filed by PFS in federal court litigation pending against the United States Department of the Interior and PFS (District of Utah 98-CV-00380K). In addition, I am enclosing a declaration which was filed in the same case by Sammy Blackbear.

It seems to me that the Blackbear declaration raises serious and fundamental questions regarding the right of Leon Bear to claim authority to act on behalf of the Tribal General Council (the Tribe's sole governing body) or to speak or act on behalf of the Tribe. This, of course, raises even more questions concerning the purported lease agreement presented to the Commission by PFS as one of the foundational documents supporting its application.

I call this conflict to your attention so that you may give it appropriate consideration and make it part of the record. It seems to me that this conflict must be resolved as soon as possible to avoid wasting precious resources of all concerned.

Yours very truly,

A handwritten signature in black ink, appearing to read "John Paul Kennedy", with a large, sweeping flourish extending to the right.

John Paul Kennedy

cc: service list in Docket 72-22-ISFSI

05/21/1999 18:25 2000000000

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PAGE 01



Skull Valley Band of Goshute Indians
Skull Valley Reservation
P.O. Box 150
Grantville, Utah 84029
Office: (801) 474-0535
Fax: (801) 474-0534

February 16, 1999

Mr. Mark Delligatti, Senior Project Manager
Spent Fuel Licensing Section
Spent Fuel Project Office
Office of Nuclear Material Safety and Safeguards
U.S. NUCLEAR REGULATORY COMMISSION
Washington, D.C. 20555

RE: RESPONSE TO REQUEST FOR ADDITIONAL INFORMATION (ER-1)
PRIVATE FUEL STORAGE FACILITY
DOCKET NO. 72-22/TAC NO. L22462
SKULL VALLEY BAND OF GOSHUTE INDIANS


Mr. Delligatti:

Mr. Francis Young, in a letter from the Nuclear Regulatory Commission (NRC) dated December 18, 1998, requested from Private Fuel Storage, LLC (PFS) additional information related to their License Application for a Spent Fuel Storage Facility located on the Skull Valley Band of Goshute Indians' Reservation. A sub-set of these questions requested additional information relating to the Band and its members.

The Band has participated in the preparation of these responses to these questions with the assistance of PFS. Although the questions requested information concerning topics generally deemed sensitive by the Band, we believe the information supplied addresses the needs expressed by the NRC and will provide closure of these questions.

The responses supplied as an attachment to this letter are directed toward NRC questions numbered 9-2(b), 11-1, 11-2(a,b,c), 11-7(a), 12-3(a,b), 13-1(a,b), 13-2(a,b), and 15-4.

Thank you


Leon D. Bear, Chairman
Executive Committee

cc: J. Parkyn, PFS Chairman
Attachment

10000000

ENVIRONMENTAL IMPACT STATEMENT

9. LAND AND WATER USE

- 9-2 b. Provide any plans for economic development by the Skull Valley Band of Goshute Indians, as well as any other planning documents related to the county's future development, such as comprehensive plans and population projections. This information will support the EIS cumulative impact analysis concerning land use.

Information should be sufficient to support the EIS assessment of impacts of the proposed project on land use in general and on other developments currently being planned in the area.

RESPONSE

County plans are provided elsewhere in the overall response by PFS (Attachment 9-2). The Skull Valley Band of Goshute Indians are pursuing future economic development of the reservation and the Band. As noted in the PFS ER, the remote desert environment of much of Tooele County (including Skull Valley) cannot support increased population or development. Natural resources, particularly the lack of water resources, will always serve as a limitation to potential growth in certain areas of the county. Although development plans have not been formalized, the Band's intent is to pursue industrial and agricultural development on the reservation. The Tekoi Test Facility and the PFS storage facility are examples of industrial development on the reservation in the roughly 13 sections of land designated for that purpose. Agricultural initiatives (cattle grazing) on a 1/2 section of land are of long range interest to the Band. The Band selectively considers business opportunities for the reservation that are consistent with other business ventures in Tooele County.

ENVIRONMENTAL IMPACT STATEMENT

11. SOCIOECONOMIC EFFECTS

- 11-1 Assess the effects the lease payments would have on the community of Skull Valley Band members living on the reservation; on potential social, educational, and economic development of the reservation; and the welfare of the Band members who live in other communities.

RESPONSE

Currently the Skull Valley Band of Goshute Indians have an enrollment of 119, with about 30 members of the Band living on the reservation. Six of these members are over the age of eighteen. The balance of the enrollment reside in the outlying cities or out-of-state. Two adult Band members from the reservation are students; one Band member is an elected tribal official, and the other Band members from the reservation are employed at the Tekoi facility (as a security guard) or off the reservation in nearby communities working within the agriculture, forestry, and fisheries class of industry.

Members living off the reservation are employed in similar positions and also include artisans, nurses, and construction workers. Approximately 50 % of the enrolled membership living off the reservation have expressed interest in returning to the reservation if jobs and housing were available. The presence of the PFS facility will provide this opportunity to all enrolled Band members.

The Band has no natural resources other than the raw land itself. Because the Skull Valley Goshute Reservation is located in an area that has been designated as a waste zone by the State of Utah, the Band must rely on economic development programs that are consistent with the numerous waste processing and testing facilities that surround the Reservation. Until 1995 about 90% of the Band's income to fund programs came from the lease of a rocket motor testing facility on the reservation. This lease has been renewed but the scale of activities has reduced significantly in recent years as well as the number of Band members receiving employment at the facility (now down to 2 tribal members). The Band has decided against business relationships with businesses not consistent with other industrial activities in Tooele County and of interest to the Band.

The addition of the PFS facility to the reservation will provide a base income to the Band as a whole. Individual job opportunities will also exist which will further enhance and support the economic stability of the Band. The Band, through a budgeting process, allocates all of the financial resources for the betterment of the Band on a yearly basis. Many of the activities conducted on the reservation, including maintenance, operation of the Pony Express Store, and the operation of Tribal governance are presently volunteer positions due to the lack of financial

resources. The Band is in the process of developing financial strategies to provide for the long-term financial security and standard of living improvement for all enrolled Band members from their business ventures which includes their business opportunity with PFS. Improvements contemplated for the reservation include housing, schools, day-care, medical facilities, higher education opportunities, and commercial improvements to the Pony Express Store.

ENVIRONMENTAL IMPACT STATEMENT

11. SOCIOECONOMIC EFFECTS

- 11-2 For the following items, include a discussion of significant differences, if any, between members who live on the reservation and those who live in communities off the reservation.

Describe the education, income levels, location, health, etc. of the Skull Valley Band including any characteristics that would distinguish the Band members from the general population, including the following:

- a. Explain the extent to which Band members who live off the reservation return to the reservation for regular visits, cultural and/or religious activities, or have other connections to the reservation land.
- b. Explain whether those members living off the reservation would be likely to move to the reservation if there were equivalent or other economic opportunities on the reservation or whether residents of the reservation would be likely to leave if the construction of the facility is approved. This information is needed to ascertain whether lease payments would be likely to result in inducing people to move onto the reservation or to leave it.
- c. Provide any available information on criteria or restrictions that the Band applies in deciding whether to allow persons to reside and/or operate a business on the reservation.

RESPONSE

The household income of the Band members living on the reservation is approximately \$20,000 per year. About 17 individuals are noted as having incomes below the poverty level. (Includes individuals who live on the reservation but are non-Band members, eg, spouses of Band members).

It is noted that the above information conflicts with some government documents, eg, one document reports that a total of five households on the reservation have an income of between \$40,000 and \$74,999 with the median household income within the reservation at \$61,359 (Income & Poverty Data for Skull Valley Reservation, UT, 1/8/99). Also, the per capita income in 1990 was reported as \$20,647 for residents on the reservation. These numbers are incorrect and grossly overstate the income on the reservation.

Approximately 10 % of the enrolled membership of the Band have two or four year degrees from post-secondary education. The Band has an ongoing tuition

assistance program that has limited capability due to the lack of financial resources. The general health of the Band is not any different and would not be distinguishable from the general population.

- a. The ancestral land routinely inhabited over the centuries by the Skull Valley Band of Goshute Indians is in Tooele Valley not Skull Valley. The Band was a nomadic tribe with family units traveling together rather than village units. The Tooele Valley was the area to where these nomadic families gravitated together. Their spiritual and other ceremonial events are traditionally individualistic in nature and occurred more often when two families met while traveling. Today, the Band's practicing of spiritual or other kinds of ceremonies remain individualistic.

Individual spiritual ceremonies are open to all native Americans who share the same personal spiritual beliefs as the person requesting the ceremony. The conduct of the ceremonies is not a scheduled activity. Word of mouth throughout the Band and other tribes is the typical mechanism for announcement. A great many of the ceremonies are conducted in individual homes, whether on or off the reservation.

Band governance activities in terms of a yearly general council meeting draw nearly full attendance of the enrolled members to Skull Valley.

- b. Band members over the years have left the reservation due to the lack of jobs, adequate housing, and suitable conditions to raise a family. At the present time, 50 % of the enrolled members living off the reservation have expressed interest in returning to the reservation if jobs and housing were available. No members of the Band living on the reservation have expressed a desire to leave when the PFS facility is built and operating. The availability of jobs and income from PFS will provide the financial resources for the Band to achieve their goal of creating a productive homeland for all enrolled Band members.
- c. The reservation is open to all enrolled Band members without exclusion. Non tribal members can only live on the reservation if married to an enrolled member of the Band.

Tribal enterprise opportunities are screened by the Band's Executive Committee for consistency with the Bands goals of economic independence through ventures that are similar to those throughout Tooele County. The General Council meetings that are attended by a majority of enrolled members of the Band determine the direction and focus that the Executive Committee uses in its assessment of business ventures. The General Council then approves further action by the Executive Committee for those ventures worthy of interest.

ENVIRONMENTAL IMPACT STATEMENT

11. SOCIOECONOMIC EFFECTS

11-7 Assess the social and economic impacts to the residents of Skull Valley who are not Band members.

- a. Describe and quantify the employment of (1) Band members and (2) non-Band members, in ranching and agricultural activities, at the Alliant Techsystems static rocket engine test facility, the Pony Express store, and any other places of employment. Report the extent to which people employed in these and other enterprises in Skull Valley live in the valley or commute from other communities.

RESPONSE

According to the U.S. Census Bureau, in 1990, of the 17 individuals (15 male, 2 female) living on the Skull Valley Reservation aged 16 years and over, 5 males were employed in the labor force. All five of the employed individuals lived within 10 minutes of their place of employment, and all 5 were employed in the "industrial, agriculture, forestry, and fisheries" business sector. Today, 4 males and 1 female have income producing employment. The balance of the potential work-force either are physically unable to work, volunteer for unpaid tribal positions, or have not found suitable opportunities for employment.

The Pony Express Convenience Store is owned and operated by the Skull Valley Band of the Goshute Indians and sells convenience groceries and gasoline to Band members and passersby on Skull Valley Road. Three volunteer staff members operate the store. These members include one tribal resident from the reservation, one non-tribal member married to a tribal resident, and one non-tribal member who lives in a nearby residence south of the reservation. The store is open seven days a week from nine to five. All operational and maintenance costs for the store are controlled through the tribal budgeting process. Income derived from the Pony Express operation is deposited into the tribal general account.

A discussion of income from the Alliant Techsystems rocket testing facility is provided in response 11-1. The facility employs 3 security personnel, 1 of which is a tribal member living in Grantsville, another tribal member living on the reservation, and 1 non-tribal member living in Skull Valley. Five non-tribal technicians work at the facility only during the infrequent testing operations. These individuals commute from the Salt Lake City area to the test facility. No Tribal members are directly employed for facility operations. The proposed PFS facility would not affect the continued operation of the Alliant Techsystems facility.

The principal land use in Skull Valley is rangeland for livestock grazing. Cattle and sheep are grazed, especially in winter when livestock is brought down from the higher mountain elevations. As noted in the PFS ER, the land along the Low Corridor rail spur and a majority of land (55 percent) within a 5-mile radius of the PFSF is public land administered by the BLM as part of the Pony Express Resource Area (PERA). The remainder of the land is split almost evenly between the Skull Valley Reservation and private ownership.

As the PFS ER points out, the BLM land within 5-miles of the PFS facility is part of the Skull Valley and South Skull Valley grazing allotments. 85% of the land in the Skull Valley Allotment is considered to be of fair to poor condition with the overall conditions in decline. The allotment is divided into three pastures: West Cedar, Eightmile, and Black Knoll. The southeast corner of the Black Knoll Pasture is within the 5-mile radius and the Low Corridor rail spur would cross both the Black Knoll and Eightmile Pastures. Two operators are authorized to graze sheep and cattle within the Skull Valley allotment. Portions of two pastures in the South Skull Valley allotment are within the 5-mile radius: the East End of the Cochrane Pasture and the northern edge of the Post Hollow Pasture. The permit holder for these areas is also allowed to graze sheep and cattle. It is unknown how many individuals are employed by these private ranchers, however, operation of the PFS facility would not interfere with the continued use of these pastures for grazing.

ENVIRONMENTAL IMPACT STATEMENT

12. CULTURAL RESOURCES

12-3 Assess the effects of the proposed PFSF construction and operation on traditional Skull Valley Goshute practices.

- a. Describe these traditional lifestyles and practices and the importance in maintaining these lifestyles for the Skull Valley Band.
- b. Provide evidence that known traditional practitioners (or the traditional leaders of the Skull Valley Band) have been consulted to acquire this information.

The information should include types of plants that are used and the traditional gathering sites for these plants; animals that are hunted and the locations of traditional hunting sites; and ceremonies that are performed and the locations of traditional ceremonial sites. Other traditional practices (and the areas in which they occur) also should be identified.

RESPONSE

- a. As noted in the response to Question 11-2, the ancestral lands of the Skull Valley Band of Goshute are in Tooele Valley not Skull Valley. Pit houses, pictographs, and religious circles have been logged in the valley on the Tooele Army Depot and elsewhere. Furthermore, traditional Band practices are individual in nature and are not associated with the physical reservation property. Due to the lack of water for a significant portion of the reservation, traditional plants such as sage and cedar either do not exist generally in a condition to be of interest to Band members or at all. Locations to find such plant are in the Stansbury Mountains not lower in the valley where the reservation is located. The availability of such plants in Tooele Valley is far greater than Skull Valley for the limited use by Band members. The presence of the PFS facility in Skull Valley as well as other Band business ventures will have no effect on tribal members in this regard.
- b. The Skull Valley Band of Goshute Indians has a traditional form of government under a General Council comprised of the eligible membership of the Band. A three person Executive Committee, elected by the General Council, comprised of a Chairman, Vice-Chairman, and Secretary, is the governing body of the Band and handles day to day matters. The Executive Committee represents the Band and all of it's enrolled members for tribal affairs. PFS previously conferred with members of the Executive Committee for information to support the License Application to the Nuclear Regulatory Commission.

ENVIRONMENTAL IMPACT STATEMENT**13. ENVIRONMENTAL JUSTICE**

- 13-1 a. Describe the leadership and governance of the Skull Valley Band of Goshute Indians.
- b. Explain how the reservation of the Skull Valley Band of Goshute Indians meets the screening factors described in the ER of the criteria for selection of candidate sites of a "willing jurisdiction," and "public acceptability." To the extent applicable, provide the response of the Skull Valley Band to the Site Selection Questionnaire (ER Table 8.1-2).

RESPONSE

- a. The Skull Valley Band of Goshute Indians is a federally recognized Indian Tribe. An Executive Committee, that is the governing body of the Band, and the General Council, which is the membership of the Band, handles tribal governance. The Executive Committee is comprised of three members, Chairman, Vice-Chair, and Tribal Secretary, who are nominated and elected by the adult membership of the General Council for four year terms.
- b. Attached to these responses is a copy of the Site Selection Questionnaire with the Band's responses to questions provided by PFS. The Band received this questionnaire after PFS was notified by the Band of our interest in hosting the facility on the reservation in the area identified for industrial development. Since the Band approached PFS for consideration and have, on record, a resolution of the General Council (consisting of all adult enrolled members of the Band) approving and supporting the development and operation of the facility, we believe this clearly establishes the Band as a "willing jurisdiction". In addition, the reservation is located in an area that has been designated as a waste zone by the State of Utah. Numerous "waste" businesses have already been established everywhere in this zone but on the reservation. Therefore, we believe that the Band represents the only "public" left to be considered for acceptability and as previously established, we find the facility not only acceptable, but also highly desirable.

ENVIRONMENTAL IMPACT STATEMENT

13. ENVIRONMENTAL JUSTICE

- 13-2 a. Describe the frequency with which the activities discussed in the RAI item 12-3 occur and the extent to which men, women, and/or children participate in them.
- b. Describe consumption rates of locally harvested plants and animals by Skull Valley Goshute men, women, and children.

Provide sufficient information to determine whether the proposed action in conjunction with traditional activities and/or food consumption patterns could lead to adverse health impacts to the residents of the reservation and other Skull Valley Band members.

RESPONSE

- a. As identified in the response to question 11-2, activities, ceremonies, and traditional practices other than governance are practiced by the individual in a home setting wherever that is located. Ancestral lands reside in Tooele Valley with the more well known historical and logged locations found on the Tooele Army Depot property.
- b. The lack of water in general on the reservation severely restricts the availability of all edible plants and therefore restricts the presence of animals with the exception of a few horses maintained by Band members. Tribal members consume food obtained from commercial stores no different than other members of the general population in Tooele County or Salt Lake City. The Band has identified an area (1/2 section) of potential agricultural development (limited cattle grazing) east of Skull Valley Road and west of the Tribal Village. This area has been identified for possible future development if sufficient water can be obtained to support the operation. No plants or animals are presently grown or grazed on the reservation for human consumption.

ENVIRONMENTAL IMPACT STATEMENT

15. COST / BENEFIT ANALYSIS

- 15-4 Provide information on the amount of income generated for the Skull Valley Band and/or its members by existing economic activities in Skull Valley, and the extent to which such income-producing activities may be lost if the PFS application is approved.

RESPONSE

Income producing activities are described in responses 11-1, 11-2, and 11-7.

The Band's business affairs are privileged and proprietary as we are in competition with other businesses in Tooele County and have limited resources to pursue such ventures. As discussed in the response to question 11-2, the general personal income to residents of the reservation is small. In addition, by the very fact that the operation of the reservation and the Pony Express Store is done by volunteers clearly establishes that the income received from our business ventures does not even cover the true cost of running the Band's affairs as a "business". In fact, other businesses could not survive under these same conditions off the reservation. None of our business activities would be adversely affected by the PFS facility. In fact, the business activity associated with the Pony Express Store would probably increase significantly due to the construction and operation of the PFS facility.

JUL-20-99 TUE 16:27

J P KENNEDY ATTORNEY

FAX NO. 801 581 1007

P.02

SENT BY: PHYSICAL RESOURCES : 7-20-99 : 2:13PM : UTAH ATTORNEY GEN.->

801 581 1007: # 2/ 4

UNITED STATES DISTRICT COURT

IN AND FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

STATE OF UTAH,

:

Plaintiff,

:

DECLARATION OF
LEON D. BEAR

vs.

:

THE UNITED STATES DEPARTMENT
OF THE INTERIOR; BUREAU OF
INDIAN AFFAIRS; PHOENIX AREA
DIRECTOR, BUREAU OF INDIAN
AFFAIRS; and SUPERINTENDENT OF
UINTAH AND OURAY AGENCY,
BUREAU OF INDIAN AFFAIRS,

:

Civil Action No. 2:98CV 0380K

:

:

:

Defendants.

:

I, Leon D. Bear, state:

1. I am the Chairman of the Skull Valley Band of Goshute Indians ("Band"), a Federally recognized Indian tribe located in the State of Utah.
2. The Freedom of Information Act ("FAIA") litigation at hand concerns a lease, dated May 20, 1997, between the Band and Private Fuel Storage L.L.C. ("PFS"). By this lease the Band agreed to permit PFS to construct a facility for the temporary storage of spent nuclear fuel ("SNF") for a term of years and then to store the SNF on a portion of the Band's reservation in exchange for economic and employment benefits. The Band and PFS further agreed that the lease would become effective only upon the issuance of an Environmental Impact Statement and the licensing of the facility by the Nuclear Regulatory Commission following the required regulatory proceedings.

JUL-20-99 TUE 16:27

J P KENNEDY ATTORNEY

FAX NO. 801 581 1007

P. 03

SENT BY: PHYSICAL RESOURCES : 7-20-99 : 2:14PM : UTAH ATTORNEY GEN. -

801 581 1007;# 3/ 4

3. On December 4, 1996 the Band requested that the Superintendent of the Uintah and Ouray Agency ("Superintendent") of the Bureau of Indian Affairs ("BIA"), Department of the Interior ("Department"), began a review of the proposed lease as required by 25 U.S.C. §415 and 25 C.F.R. Part 162 for approval or disapproval of the lease in the exercise of the Department's trust responsibility to the Band. The Band made this request because the land in question is "restricted Indian lands" within the meaning of 25 U.S.C. §415. After extensive negotiations, the Superintendent approved the lease on May 23, 1997.

4. I understand the Government has withheld provisions addressing the termination of the lease (paragraph 4.C(1) and (2), lease payments (paragraph 5.A-H), rent and rent interest payments (part of paragraph 6), applicability of Band taxes and regulations (Paragraph 17.B), frustration of purpose provisions (paragraph 25.B), limited waiver of sovereign immunity (paragraph 27.D) and part of paragraph 35.A(1), and annual expense escalators (Exhibit "E") (hereinafter "the withheld information") from public disclosure.

5. The Band is opposed to the public disclosure of the withheld information.

6. This a confidential business transaction involving competition with other sites and governments nationally and internationally. Other Indian tribes, non-Indian groups and organizations, and governments have shown interest in being hosts for SNF storage facilities. The disclosure of the withheld information would give such competitors valuable information which they could use to negotiate lower payments, and to structure waivers of sovereign immunity, termination provisions, tribal taxes, tribal regulations, and other provisions.

7. Furthermore, the Band is interested in other types of leases and agreements as part of a broad economic development program. The Band may wish to negotiate different provisions addressing financing, sovereign immunity, taxes, regulations, termination, and other provisions for

JUL-20-99 TUE 16:27

J P KENNEDY ATTORNEY

FAX NO. 801 581 1007

P.04

SENT BY: PHYSICAL RESOURCES ; 7-20-99 ; 2:14PM ; UTAH ATTORNEY GEN. ->

801 581 1007;# 4/ 4

such prospective future leases and agreements. Release of the withheld information would severely undercut the Band's future business transactions and would ruin the confidence of potential corporation partners in the ability of the Band to maintain a confidential relationship.

8. The withheld information is unquestionably information which the Band guards as proprietary and confidential information. We have not publicly released it in any other context. To make such information publicly available would be unfair and would put the Band at a competitive disadvantage. Both the Band and PFS recognized the importance of protecting this information from public disclosure and entered into a Confidentiality Agreement concerning the lease and related materials on December 27, 1996, which was approved by the BIA on February 28, 1997.

9. Had the Band believed that the withheld information would be made publicly available under the FOIA, the Band would not have entered into the lease as negotiated but rather would have sought alternative means of compensation from PFS that would not have required the approval of the Department.

10. In accordance with 28 U.S.C. §1746 I declare under penalty of perjury that the foregoing is true and correct.

DATED this 24th day of July, 1998.


LEON D. BEAR CHAIRMAN