

December 5, 2000

Ms. Margene Bullcreek
Ohngo Gaudadeh Devia
P.O. Box 155
Tooele, UT 84074

SUBJECT: SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT
CONSULTATION PROCESS FOR THE PROPOSED PRIVATE FUEL
STORAGE PROJECT

Dear Ms. Bullcreek:

As you are aware, Private Fuel Storage, Limited Liability Company (PFS), proposes to construct and operate an independent spent fuel storage installation (ISFSI) on the Reservation of the Skull Valley Band of Goshute Indians, a Federally recognized Indian Tribe. The U.S. Nuclear Regulatory Commission (NRC), the U.S. Department of Interior's Bureau of Indian Affairs (BIA) and Bureau of Land Management (BLM), and the Surface Transportation Board (STB) agreed to participate jointly in the consultation process required by Section 106 of the National Historic Preservation Act.

By letter dated September 13, 2000, the cooperating Federal agencies requested information from Ohngo Gaudadeh Devia (OGD) on (1) the awareness of, or concern for, any prehistoric or historic district, site, building, structure, or object eligible for inclusion on the National Register of Historic Places, or (2) the awareness of, or concern for, properties of traditional religious and cultural significance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria as defined in 36 CFR Part 60. On October 11, 2000, you contacted Scott Flanders, of the NRC staff, and requested a 2-week extension to file your comments. Mr. Flanders agreed to your request. Upon the passage of three additional weeks, the NRC staff and representatives of the BIA and BLM contacted representatives of OGD and arranged a telephone conference call. This conference call was held on November 9, 2000. Its purpose was to solicit information regarding cultural resources that OGD believes will be affected by the construction and operation of the proposed facility or the rail line in order to determine OGD's eligibility to participate in the consultation process. Enclosure 1 is a summary of the content of the conference call.

We appreciate your organization's contribution to the process by your suggestions, such as considering potential artifacts within the Area of Potential Effect (APE). As discussed during the conference call, a Class III cultural resources inventory was performed on the Reservation and in Skull Valley, Utah. All portions of the APE were included in the study area. At your request, a copy of the Class III cultural resources report documenting the cultural resource inventory is enclosed (Enclosure 2). Site location information contained in the Class III cultural resources report may not be released to the general public under federal law, and it is essential that this information be protected.

As you will see in the Class III cultural resources report and in the Draft Environmental Impact Statement (Page 4-38), no properties or use of culturally important natural resources of traditional religious and cultural significance to an Indian tribe or Native Hawaiian organization have been identified. The cooperating Federal agencies recognize that unanticipated discovery of cultural properties can occur once construction of the project has begun. Therefore, the cooperating Federal agencies have agreed to include a provision in a Treatment Plan for covering the entire APE, to deal with any unanticipated discovery of cultural properties or culturally important natural resources of traditional religious and cultural significance to a Federally recognized Indian tribe or Native Hawaiian organization.

Notwithstanding the cooperating Federal agencies' determination that the substantive information OGD provided reflected issues that were already being considered as a part of the Section 106 consultation process, the cooperating Federal agencies have agreed that OGD should be included as a consulting party to the Section 106 consultation process.

The cooperating Federal agencies appreciate your forthright statement that you do not believe that you have the expertise to make determinations of cultural resources within the APE and that you would defer to the judgment of elders of the Confederated Tribes of the Goshute Reservation. Please be aware that elders of the Confederated Tribes of the Goshute Reservation have been consulted in this regard and that the Confederated Tribes of the Goshute Reservation have also been granted consulting party status (see Enclosure 3).

If you have any questions or comments regarding this request, please contact Scott Flanders (NRC) at (301) 415-1172, Laird Naylor (BLM) at (801) 977-4357, Garry Cantley (BIA) at (602) 379-6750, or Phillis Johnson Ball (STB) at (202) 565-1530.

Sincerely,
/RA/ original signed by /s/
Mark S. Delligatti, Senior Project Manager
Spent Fuel Licensing Section
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-22

Enclosures:

1. Minutes of the 11/9/00
Teleconference
2. Class III Cultural Resources
Inventory Report
3. Ltr dtd 11/20/00 to the
Confederated Tribes of
the Goshute Reservation

cc: EIS Service List
Natalie Gochnour, Utah State
Planning Coordinator

As you will see in the Class III cultural resources report and in the Draft Environmental Impact Statement (Page 4-38), no properties or use of culturally important natural resources of traditional religious and cultural significance to an Indian tribe or Native Hawaiian organization have been identified. The cooperating Federal agencies recognize that unanticipated discovery of cultural properties can occur once construction of the project has begun. Therefore, the cooperating Federal agencies have agreed to include a provision in a Treatment Plan for covering the entire APE, to deal with any unanticipated discovery of cultural properties or culturally important natural resources of traditional religious and cultural significance to a Federally recognized Indian tribe or Native Hawaiian organization.

Notwithstanding the cooperating Federal agencies' determination that the substantive information OGD provided reflected issues that were already being considered as a part of the Section 106 consultation process, the cooperating Federal agencies have agreed that OGD should be included as a consulting party to the Section 106 consultation process.

The cooperating Federal agencies appreciate your forthright statement that you do not believe that you have the expertise to make determinations of cultural resources within the APE and that you would defer to the judgment of elders of the Confederated Tribes of the Goshute Reservation. Please be aware that elders of the Confederated Tribes of the Goshute Reservation have been consulted in this regard and that the Confederated Tribes of the Goshute Reservation have also been granted consulting party status (see Enclosure 3).

If you have any questions or comments regarding this request, please contact Scott Flanders (NRC) at (301) 415-1172, Laird Naylor (BLM) at (801) 977-4357, Garry Cantley (BIA) at (602) 379-6750, or Phillis Johnson Ball (STB) at (202) 565-1530.

Sincerely,

/RA/ original signed by /s/

Mark S. Delligatti, Senior Project Manager
Spent Fuel Licensing Section
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-22

Enclosures:

1. Minutes of the 11/9/00
Teleconference
2. Class III Cultural Resources
Inventory Report
3. Ltr dtd 11/20/00 to the
Confederated Tribes of
the Goshute Reservation

cc: EIS Service List

Natalie Gochnour, Utah State Planning Coordinator

DISTRIBUTION with Encl. 1

Docket NRC File Center PUBLIC SFPO r/f NMSS r/f STurk, OGC MWaters MWong CAbams
AChowdhury, CNWRA CMarco, OGC TMadden, OCA SDroggitis, OSP SGagner, OPA RWeisman, OGC
C:\odv2\letter.wpd *see previous concurrence

OFC:	SFPO*	E	SFPO*	E	SFPO*	E	OGC		SFPO		SFPO	
NAME:	SFlanders		VTharpe		MDelligatti		Sturk via e-mail		SShankman		EWBrach	
DATE:	12/05/00		12/05/00		12/05 /00		12/05 /00		12/05/00		12/05/00	

OFFICIAL RECORD COPY

This document should/should not be made available to the PUBLIC. ____ (Initials) / / (Date)

**MINUTES OF THE NOVEMBER 9, 2000, TELECONFERENCE
WITH OHNGO GAUDADEH DEVIA
ON THE NATIONAL HISTORIC PRESERVATION ACT CONSULTATION PROCESS
FOR THE PROPOSED PRIVATE FUEL STORAGE PROJECT**

Participants:

Name:

Margene Bullcreek, Principal
Samuel Shepley, Attorney
Mark Delligatti, Senior Project Manager
Scott Flanders, Senior Project Manager
Melanie Wong, Project Manager
Laird Naylor, Archeologist
Steve Simpson, Attorney
Paul Nickens, Archeologist

Organization:

Ohngo Gaudadeh Devia
Ohngo Gaudadeh Devia
NRC
NRC
NRC
BLM - Salt Lake Field Office
BIA
Pacific Northwest National Laboratory

The teleconference began at 12:00 p.m., EST. Mr. Flanders stated that the purpose of the teleconference was to solicit information regarding cultural resources that Ohngo Gaudadeh Devia (OGD) believes will be affected by the project. This information is solicited to determine whether OGD is eligible to participate in the National Historic Preservation Act consultation process.

By letter dated September 13, 2000, the cooperating Federal agencies had requested information from OGD on (1) the awareness of, or concern for, any prehistoric or historic district, site, building, structure, or object eligible for inclusion on the National Register of Historic Places, or (2) the awareness of, or concern for, properties of traditional religious and cultural significance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria as defined in 36 CFR Part 60. Ms. Bullcreek confirmed that OGD had not responded to the September 13, 2000, letter and had requested an extension of time. Mr. Flanders asked if OGD was now ready to state its position on the cultural resources within the Area of Potential Effect (APE) to be provided to the cooperating Federal agencies. While Ms. Bullcreek noted that the organization was not aware of any historic structures located in the APE, she stated that the project would have irreversible effects. She further stated that she believed that the project could potentially disturb artifacts, cemeteries and campsites, and medicinal plants (e.g., sagebrush and other plants she could not identify at that time). In addition, she stated her belief that the proposed project would impact a sacred underground artesian watercourse involved in ceremonial purification. Ms. Bullcreek also stated that she believed that the air and animals were sacred and that they too would be disturbed. A botanical survey was requested by Ms. Bullcreek.

Mr. Flanders and Mr. Naylor disclosed that a Class III cultural resource inventory of the APE had been performed and that a copy of the report would be forwarded to the organization. Ms. Bullcreek stated that she was not qualified to make such determinations of cultural resources within the APE and that she preferred to defer to the tribal elders, particularly those of the Confederated Tribes of the Goshute Reservation. Mr. Flanders stated that the cooperating Federal agencies had consulted with the Confederated Tribes of Goshute Reservation (specifically with Mr. Ken Williams, Chairman Milton Hooper's appointed representative). Ms. Bullcreek indicated that, in her opinion, Mr. Williams was not an acceptable representative.

Mr. Flanders indicated that the cooperating Federal agencies would consider the information that OGD had provided and decide whether OGD would be granted consultation status.

The teleconference concluded at approximately 12:45 p.m. EST.