

18736

DOCKETED  
USNPC

**United States Of America**  
**Nuclear Regulatory Commission**  
Before the Atomic Safety and Licensing Board

98 JAN 14 P3:08

In the matter of )

Private Fuel Storage L.L.C. )

(Private Fuel Storage Facility) )

Docket No. 72-22

ASLBP No. 97-732-02-ISPSI

OFFICE OF THE  
GENERAL COUNSEL  
ADVISOR

**RESPONSE OF SKULL VALLEY BAND OF GOSHUTES TO  
 FURTHER SUPPLEMENTAL MEMORANDUM IN SUPPORT OF THE  
 PETITION OF THE CONFEDERATED TRIBES OF THE GOSHUTE  
 RESERVATION AND DAVID PETE TO INTERVENE AND FOR A HEARING**

The Confederated Tribes of the Goshute Reservation seeks to intervene in this proceeding based upon the spurious claim that certain of its members visit the Skull Valley Reservation, gather and eat food that grows in the "Skull Valley area," and are otherwise directly affected by what happens on the Skull Valley reservation. The Skull Band of Goshutes is a tribe separate and apart from the Confederated Tribes of the Goshute Reservation. As a matter of Federal law, Skull Valley and the Confederated Tribes are completely separate entities. They have different Federal ID numbers and different agencies under the Bureau of Indian Affairs. Elections in Ibapah for the Confederated Tribes do not have any impact on the members of Skull Valley and vice versa. As has previously been set forth in other pleadings, the Skull Valley Reservation is at least 60 miles as the crow flies, from the Confederated Tribes, whose Reservation extends into Nevada. The two Reservations are separated by three mountain ranges and one major desert. By car, the distance is at least 180 miles.

The Confederated Tribes have no rights on or to the Skull Valley Reservation and therefore do not have standing to intervene in this proceeding. The Band respectfully

Template = SECY-037

SECY-02

submits that this position is indisputable based upon the actions and statements of the Confederated tribes itself.

On October 4, 1992, Leon D. Bear, the now Chairman of the Skull Valley Band was hunting with his brother on the Confederated Tribes' Reservation at the Deep Creek Mountain Range. On that date, at approximately 11:15 a.m., Leon and his brother were stopped by a Confederated Tribes' Tribal Law Enforcement Officer, who confiscated their hunting rifles. The two were also charged with criminal trespass on the Confederated Tribe's Reservation. Exhibit 1 is a copy of the Appearance Ticket/Complaint issued to Mr. Bear by the Confederated Tribes' Tribal Law Enforcement Officer.

After several attempts to resolve this matter, on December 23, 1992, John Paul Kennedy, counsel for the Confederated Tribes, finally wrote to the undersigned counsel for the Skull Valley Band offering to drop the criminal charges,

"if they [Leon D. Bear and his brother] would stipulate that they have no right to hunt and fish (or gather) on the Goshute Reservation at Ibapah and they would not do so in the future without written authorization of the Tribal Business Council at Ibapah."

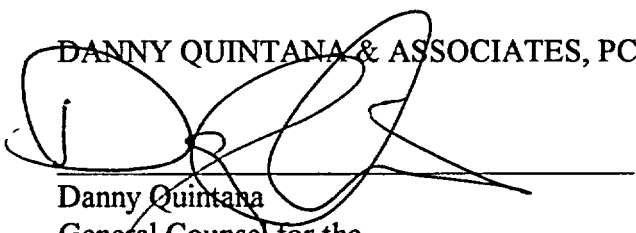
A copy of Kennedy's letter is attached as Exhibit 2. Since it is the Confederated Tribes' position that members of the Skull Valley Band are trespassing on the Confederated tribes' Reservation when they hunt, fish and gather without "written authorization" of the Confederated Tribes' Business Council, then as a matter of simple reciprocity (let alone fairness and equity), the members of the Confederated Tribes can have no greater rights with respect to the Skull Valley Reservation. The Confederated Tribes should certainly not be entitled to claim credit for access to and the hospitality of the Skull Valley Reservation when they treat access to their own reservation by members

of the Skull Valley Band as a criminal trespass. The Confederated Tribes are estopped from claiming any rights to the Skull Valley Reservation. This Honorable Court can take judicial notice that there are over 500 Federally recognized tribes in the United States. Each have their own government. Many still have their own reservations. Some share reservations like the Confederated Goshutes who include within their membership, Piautes and Western Shoshones. The Uintah and Ouray Reservation in Northeast Utah includes White River and Uncompadre Utes and Uintahs. The language groups and blood lines have resulted in tribes having some proximity to each other, like the various Sioux and Oklahoma tribes. However, where tribes have defined borders and Federal ID numbers, different B.I.A. agencies and completely different governments, they are separate tribes.

Unless members are enrolled in both tribes, which is clearly not the case here, they have no rights in the internal affairs of the other tribe. Only Congress under Article I, Section 8 has the power "To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes". Governor Michael "over my dead body" Leavitt and Mr. Kennedy seem to be oblivious to this fundamental legal principle. The Skull Valley Band of Goshutes respectfully pray that the Confederated Tribes of Goshute Reservation be denied intervention in this proceeding.

DATED this 7<sup>th</sup> January, 1998.

DANNY QUINTANA & ASSOCIATES, PC.



Danny Quintana  
General Counsel for the  
Skull Valley Band of Goshutes

Exhibit 1

---

# CONFEDERATE TRIBES OF THE GOSHUTE INDIAN RESERVATION APPEARANCE TICKET—COMPLAINT

12 02

THE PEOPLE OF  
THE CONFEDERATED TRIBES OF THE GOSHUTES

DATE OF ISSUE

☒ CRIMINAL ☐ TRAFFIC

THE UNDERSIGNED BEING DULY SWORN, SAYS THAT ON  
OR ABOUT

Month Day Year AT Approx. Day of week  
10 14 92 AM NAS

Defendant's Name (First, Middle, Last)

ARTHUR KUMM OPPENHEIM

Street City State Zip  
P.O. Box 15 JACKSON UT 84071

State Driver's License Number Social Security Number  
530 ND 9876

Race/Sex	Date of Birth	Hair	Weight	Height	Eyes	Scars or Marks
M	2/1/75	Brown	200	5'5"	Brown	

Employed by

Vehicle Plate Number	Year	State	Vehicle Description (Year, Make, Color)	Type
6791	92	UT	1990 Ford Ch. 1.6L	1/4

THE PERSON NAMED ABOVE IN VIOLATION OF

☐ State Law ☒ Tribal Ordinance ☐ C.F.R. 25

At or Near Little North Fork Creek

Within Goshute Reservation Tropic, UT

County of Kane Did the following

Describe Trespass onto Reservation

Swing at a member of the tribe of  
indian Shoshone Enrollment # 201-5111

## NOTICE TO DEFENDANT

YOU MUST APPEAR IN COURT TO ANSWER THIS COMPLAINT

☐ on ☐ within at a.m. p.m.

In the Court at

When Notified by Tribal

Court Address & Phone Number

11111 11111 11111, 1111

IF YOU FAIL TO APPEAR AS ORDERED AN ARREST WARRANT FOR YOU WILL BE ISSUED  
BY THE COURT

Officer's I.D.

Civilian or Complainant's Name (Print)

Agency O.R.I.

Agency Name

K024

Tribal Law Enforcement

I DECLARE UNDER THE PENALTIES OF PERJURY THAT THE STATEMENTS ABOVE ARE  
TRUE TO THE BEST OF MY INFORMATION, KNOWLEDGE AND BELIEF.

Date

Complainant's Signature

10/14/92

SUBSCRIBED AND SWORN TO BEFORE ME ON THIS DATE

Signature and Title

Complainant's Signature

PRESS HARD — YOU ARE MAKING THREE COPIES

White & Canary—Court Copies

Pink—Prosecutor's Copy

Gold—Defendant's Copy

Exhibit 2

JOHN PAUL KENNEDY  
ATTORNEY AT LAW  
1385 YALE AVENUE  
SALT LAKE CITY, UTAH 84105  
TELEPHONE (801) 583-8170  
TELEFAX (801) 581-1007

December 23, 1992

By Telefax: 521-4625

Mr. Danny Quintanna  
Judge Building, Suite 735  
8 East Broadway  
Salt Lake City, Utah 84111

Re: Hunting trespass

Dear Danny:

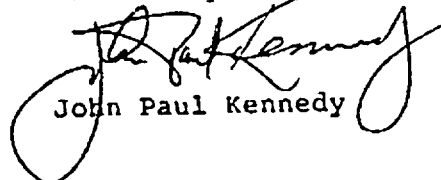
I received your proposed agreement on gaming.

I must say that the proposal was nothing like what I discussed with you. To reiterate my clients' position: If your individual clients would like to avoid going through a criminal trial on the hunting matter, the Goshute Tribe at Ibapah would be willing to resolve the matter if they would stipulate that they have no right to hunt and fish (or gather) on the Goshute Reservation at Ibapah and that they would not do so in the future without written authorization of the Tribal Business Council at Ibapah. I suggested that since they are the leaders at Skull Valley, they should have a council resolution setting forth the foregoing so we don't have similar problems with others in the future.

Your draft sets forth numerous matters which I am certain would be unacceptable to the Goshute Tribe at Ibapah.

If the case is resolved, I am confident that we can arrange for the speedy return of the rifles. Short of resolution, however, I think the police will object to such a return. Please let me know as soon as possible whether your clients want to resolve this matter along the lines I've indicated. If not, the case should go forward.

Yours very truly,

  
John Paul Kennedy

DOCKETED  
USNRC

CERTIFICATE OF SERVICE

'98 JAN 14 P3:08

I hereby certify that copies of the above Response were served upon the persons indicated below in the manner stated on the date stated:

OFFICE OF SECRETARY  
RULEMAKING  
ADJUDICATION STAFF

Attn: Docketing & Service Branch  
Secretary of the Commission  
U.S. Nuclear Regulatory Commission  
Mail Stop 016G15  
11555 Rockville Pike One White Flint North Washington, D.C. 20555  
Rockville, MD 20852-2738  
(original and two copies -- Fed. Ex. Only)

Dr. Jerry R. Kline  
Administrative Judge  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
email jrk2@nrc.gov

G. Paul Bollwerk, III, Chairman  
Administrative Judge  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555  
email gpb@nrc.gov

Dr. Peter S. Lam  
Administrative Judge  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555  
email psl@nrc.gov

Office of the Secretary  
Attn: Rulemakings and Adjudication Staff  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555  
(Fed. Ex. Only)

Sherwin E. Turk, Esq.  
Catherine L. Marco, Esq.  
Office of General Counsel  
U.S. Nuclear Regulator Commission  
Mail Stop: 0-15 B18  
Washington, D.C. 20555  
Fax: 301-415-3725  
email SET@nrc.gov

Jay E. Silberg, Esq.  
Shaw, Pittman, Potts & Trowbridge  
2300 N Street N.W.  
Washington, D.C. 20037-8007  
Fax: 202-663-8007  
jay\_silberg@shawpittman.com

Jean Belille, Esq.  
Land and Water Fund of the Rockies  
2260 Baseline Road, Suite 200  
Boulder, Colorado 80302  
Fax: 303-786-8054  
landwater@lawfund.org

Diane Curran, Esq.  
Harmon, Curran & Spielberg  
2001 S Street, N.W., Suite 430  
Washington, D.C. 20009  
Fax: 202-328-6918  
dicurran@aol.com



Denise Chancellor  
Utah Attorney General's Office  
P.O. Box 140873  
Salt Lake City, Utah 84114-4810  
Fax: 801-366-0292  
dchancel@state.ut.us

Connie Nakahara, Esq.  
Utah Dep. Of Environmental Quality  
168 North 1950 West  
P.O. Box 144810  
Salt Lake City, Utah 84114-4810  
Fax: 801-536-0061

Clayton J. Parr, Esq.  
Kimball, Parr, Waddoups, Brown & Gee  
185 S. State #1300  
Salt Lake City, Utah 84147-0019  
Fax: 801-532-7751  
kjohnson@kimballparr.com

Dated: January 13, 1998.

A handwritten signature in dark ink, appearing to read "Clayton J. Parr", is written over a horizontal line.