

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

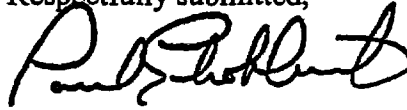
OHNGO GAUDADEH DEVIA	)	
	)	
Petitioner,	)	
	)	Nos. 05-1419
v.	)	
	)	
NUCLEAR REGULATORY COMMISSION and	)	
THE UNITED STATES OF AMERICA	)	
	)	
Respondents.	)	

STATE OF UTAH	)	
	)	
Petitioner,	)	
	)	Nos. 05-1420, 06-1087
v.	)	
	)	
NUCLEAR REGULATORY COMMISSION and	)	
THE UNITED STATES OF AMERICA	)	
	)	
Respondents.	)	

**JOINT STATEMENT OF PETITIONERS REQUESTING THAT FILING OF  
APPENDIX BE DEFERRED UNDER FED. R. APP. P. 30(c)**

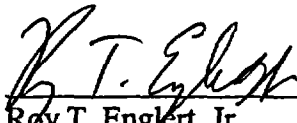
Petitioners Ohngo Gaudadeh Devia ("OGD") and the State of Utah ("Utah") hereby submit this Joint Statement of Petitioners Requesting That Filing of Appendix Be Deferred Under Fed. R. App. P. 30(c). OGD and Utah respectfully request that the preparation and filing of the appendix be deferred until after the parties have filed their briefs, as provided by Rule 30(c) of the Federal Rules of Appellate Procedure.

Respectfully submitted,



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April 17, 2006

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

OHNGO GAUDADEH DEVIA )

Petitioner, )

v. )

NUCLEAR REGULATORY COMMISSION and )  
THE UNITED STATES OF AMERICA )

Respondents. )

No. 05-1419

STATE OF UTAH )

Petitioner, )

v. )

NUCLEAR REGULATORY COMMISSION and )  
THE UNITED STATES OF AMERICA )

Respondents. )

Nos. 05-1420, 06-1087

**CERTIFICATE OF PETITIONERS' COUNSEL AS TO PARTIES,  
RULINGS, AND RELATED CASES**

Ohngo Gaudadeh Devia ("OGD") and the State of Utah ("Utah") hereby submit this Certificate of Petitioners' Counsel in accordance with (1) the Court's March 17, 2006 Order in the above-captioned cases and (2) Rule 28(a)(1) of the Rules of Appellate Procedure for the United States Court of Appeals for the District of Columbia Circuit.

In accordance with D.C. Cir. Rule 28(a)(1)(A), the following is a list of all parties, intervenors, and amici who appeared before the Nuclear Regulatory Commission in the agency proceedings that are being challenged in the above-captioned cases:

- Private Fuel Storage, LLC
- Nuclear Regulatory Commission
- State of Utah
- Ohngo Gaudadeh Devia
- The United States of America
- Confederated Tribes of the Goshute Indians
- Southern Utah Wilderness Alliance
- Skull Valley Band of Goshute Indians
- Castle Rock Land & Livestock, Skull Valley Company, Ltd., and Ensign Ranches of Utah, L.C. ("Castle Rock, et al.")
- Nuclear Energy Institute (*amicus*)
- Bureau of Indian Affairs (*amicus*)

These parties and amici are represented by the following attorneys of record:

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**Attorneys of record for amici**

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Attorney  
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Washington, D.C. 20240  
ATTORNEYS for Bureau of Indian Affairs

In further accordance with D.C. Cir. Rule 28(a)(1)(A), the following is a list of all parties, intervenors, and amici who are, as of this time, appearing before this Court or who have filed a motion to intervene:

- State of Utah, Petitioner
- Ohngo Gaudadeh Devia, Petitioner
- Nuclear Regulatory Commission, Respondent
- United States of America, Respondent
- Private Fuel Storage, LLC, Intervenor Supporting Respondent
- Skull Valley Band of Goshute Indians, Intervenor Supporting Respondent
- State of Nevada (notice of intent to participate as amicus curiae has been filed), Amicus Curiae
- William Peterson (*pro se*) (motion to intervene has been filed), Movant-Intervenor

Petitioner Utah has filed its opposition to William Peterson's motion to intervene.

Pursuant to Federal Rule of Appellate Procedure 26.1, Petitioner OGD hereby states that it has no parent corporations, and it has not issued any stock. Utah is a sovereign State of the United States and is not required to file a corporate disclosure statement under the applicable rules of appellate procedure. See D.C. Cir. R. App. P. 26.1(a); 28(a)(1)(A).

Under D.C. Cir. Rule 28(a)(1)(B), Petitioners are required to provide a list of the rulings under review. Petitioners are invoking the Court's jurisdiction with respect to all of the decisions issued by the NRC and its adjudicative bodies in the NRC's licensing proceedings relating to Private Fuel Storage LLC's ("PFS") application to build and operate an independent spent fuel storage installation and with respect to the NRC's issuance of a license that authorizes PFS to construct, operate, and decommission an ISFSI. The decisions listed below are without limitation of the Petitioners' right to challenge in their briefs other NRC decisions relating to the PFS licensing proceeding whether or not copies of those particular decisions are listed below. All decisions made reviewable by the NRC's September 9, 2005 decision (CLI-05-19) are under review, as are all

decisions made reviewable by the NRC's January 31, 2006 decision (CLI-06-03), as are all decisions made reviewable by the NRC's issuance of License No. SNM-2513 on February 21, 2006. The Court's jurisdiction has been invoked for all decisions and actions of the NRC with regard to NRC Docket No. 72-22-ISFSI. The following is a partial list of the rulings and issuances under review:

- CLI-05-19, 62 N.R.C. \_\_ (Sept. 9, 2005) (included as Exhibit A to Utah's Petition for Review)
- LBP-05-29, 62 N.R.C. \_\_ (as redacted October 28, 2005) (see Exhibit B to Utah's Petition for Review)
- CLI-01-22, 54 N.R.C. 255 (see Exhibit C to Utah's Petition for Review)
- LBP-03-04, 57 N.R.C. 69 (see Exhibit D to Utah's Petition for Review)
- CLI-05-12, 61 N.R.C. 345 (see Exhibit E to Utah's Petition for Review)
- LBP-05-05, 61 N.R.C. 108 (see Exhibit F to Utah's Petition for Review)
- CLI-04-10 (see Exhibit G to Utah's Petition for Review)
- LBP-05-20, Atomic Safety Licensing Board's Memorandum and Order (Rulings on Summary Disposition Motion and Other Filings Relating to Remand From CLI-00-13) (May 27, 2003) (see Exhibit I to Utah's Petition for Review)
- LBP-05-21, Atomic Safety Licensing Board's Partial Initial Decision on Contention Utah E (May 27, 2003) (see Exhibit H to Utah's Petition for Review)
- LBP-05-23, Atomic Safety Licensing Board's Reconsideration Ruling (January 5, 2004) (see Exhibit J to Utah's Petition for Review)
- CLI-04-04, 59 N.R.C. 31 (see Exhibit K to Utah's Petition for Review)
- LBP-98-07, 47 N.R.C. 142 (see Exhibit L to Utah's Petition for Review)
- LBP-01-23, 54 N.R.C. 163 (see Exhibit M to Utah's Petition for Review)
- LBP-98-29, 48 N.R.C. 286 (see Exhibit N to Utah's Petition for Review)
- LBP-00-27, 52 N.R.C. 216 (see Exhibit O to Utah's Petition for Review)
- CLI-02-25, 56 N.R.C. 340 (see Exhibit P to Utah's Petition for Review)
- CLI-06-03, \_\_ N.R.C. \_\_ (see Exhibit Q to Utah's March 6, 2006 Petition for Review)
- License No. SNM-2513 (see Exhibit R to Utah's March 6, 2006 Petition for Review)
- CLI-04-22, 60 N.R.C. 125
- NRC Memorandum and Order, CLI-02-20, docketed on October 1, 2002, reversing the Atomic Safety Licensing Board's partial denial of summary disposition of OGD's Contention O (Environmental Justice Contention), and directing the Board to grant summary disposition for PFS on OGD Contention O
- NRC Memorandum and Order, CLI-02-08, docketed on March 7, 2002
- Atomic Safety Licensing Board Memorandum and Order, LBP-02-08, docketed on February 22, 2002, partially denying summary disposition of OGD Contention O (Environmental Justice Contention)
- NRC Memorandum and Order, CLI-04-09, docketed on March 24, 2004, denying

- OGD's motion to reopen the case record on Contention O based on the criminal indictment of Leon Bear
- Atomic Safety Licensing Board Memorandum and Order, LBP-98-10, docketed May 5, 1998

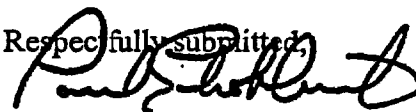
Note that both Petitioners specifically listed the following decisions in their respective petitions for review:

- NRC Memorandum and Order, CLI-05-19, docketed on September 9, 2005
- NRC Memorandum and Order, CLI-04-04, docketed on February 5, 2004
- NRC Memorandum and Order, CLI-02-25, docketed on December 18, 2002
- Licensing Board Memorandum and Order, LBP-98-29, docketed November 30, 1998
- Licensing Board Memorandum and Order, LBP-98-7, 47 NRC 142 (1998) docketed April 22, 1998

Some of the above decisions have both a public version and a non-public version, in which case the NRC has redacted from the public version safeguards security information or proprietary financial information. Petitioners are challenging all versions of the above decisions, regardless of whether their petitions for review attached public or non-public versions of a particular decision.

Finally, under D.C. Cir. Rule 28(a)(1)(C), Petitioners are required to provide a list of all related cases. The only related case of which Petitioners are aware is *Bullcreek v. NRC*, 359 F.3d 536 (D.C. Cir. 2004).

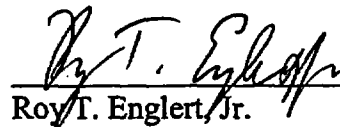
Respectfully submitted,



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April 17, 2006

United States Court of Appeals  
District of Columbia Circuit

DOCKETING STATEMENT

Administrative Agency Review Proceedings  
(To be completed by appellant/petitioner)

1. CASE NO. 06-1087 2. DATE DOCKETED 3-6-2006
3. CASE NAME State of Utah v. Nuclear Regulatory Commission  
(lead parties only)
4. TYPE OF CASE: ☒ Review ☐ Appeal ☐ Enforcement ☐ Complaint ☐ Tax Court
5. IS THIS CASE REQUIRED BY STATUTE TO BE EXPEDITED? YES NO X
- If YES, cite statute: \_\_\_\_\_
6. CASE INFORMATION:
- a. Identify agency whose order is to be reviewed: Nuclear Regulatory Commission
- b. Give agency docket or order number(s): NRC - Docket No. 72-2-ISFSI
- c. Give date(s) of order(s): January 31, 2006 decision and February 21, 2006 license issuance, and many earlier dates over the 8-year course of adjudication by the agency.
- d. Has a request for rehearing or reconsideration been filed at the agency? YES X NO \_\_\_\_\_  
If so, when was it filed? 11-3-2005 By whom? State of Utah  
Has the agency acted? YES X NO \_\_\_\_\_ If so, when? January 31, 2006
- e. Are any other cases involving the same underlying agency order pending in this Court or in any other Court?  
YES X NO \_\_\_\_\_ If YES, identify case name(s), docket number(s), and court(s):  
Ohngo Gauden Devia v. Nuclear Regulatory Commission, No. 05-1419 (D.C. Circuit); State of Utah v. Nuclear Regulatory Commission, No. 05-1420 (D.C. Circuit)
- f. Are any other cases, to counsel's knowledge, pending before the agency, this Court, another Circuit Court, or the Supreme Court which involve substantially the same issues as the instant case presents?  
YES \_\_\_\_\_ NO X If YES, give case name(s) and number(s) of these cases and identify court/agency: \_\_\_\_\_
- g. Have the parties attempted to resolve the issues in this case through arbitration, mediation, or any other alternative for dispute resolution? YES \_\_\_\_\_ NO X If so, provide the name of the program and the dates of participation. \_\_\_\_\_

Signature R T Englert Date 4-17-2006

Name of Party (Print) State of Utah

Name of Counsel for Appellant/Petitioner (Print) Roy T. Englert, Jr. Firm Robbins, Russell, Englert, Orseck & Untereiner, LLP

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ATTACH A CERTIFICATE OF SERVICE

Note: If counsel for any other party believes that the information submitted is inaccurate or incomplete, counsel may so advise the Clerk within 10 days by letter, with copies to all other parties, specifically referring to the challenged statement. An original and three copies of such letter should be submitted.

United States Court of Appeals  
District of Columbia Circuit

DOCKETING STATEMENT

Administrative Agency Review Proceedings  
(To be completed by appellant/petitioner)

1. CASE NO. 05-1420 2. DATE DOCKETED 11-8-2006
3. CASE NAME State of Utah v. Nuclear Regulatory Commission  
(lead parties only)
4. TYPE OF CASE: ☒ Review ☐ Appeal ☐ Enforcement ☐ Complaint ☐ Tax Court
5. IS THIS CASE REQUIRED BY STATUTE TO BE EXPEDITED? YES ☐ NO ☒ X  
If YES, cite statute: \_\_\_\_\_
6. CASE INFORMATION:
- a. Identify agency whose order is to be reviewed: Nuclear Regulatory Commission
- b. Give agency docket or order number(s): NRC - Docket No. 72-2-ISFSI
- c. Give date(s) of order(s): September 9, 2005, and many earlier dates over the 8-year course of adjudication by the agency.
- d. Has a request for rehearing or reconsideration been filed at the agency? YES ☒ NO ☐ X  
If so, when was it filed? 11-3-2005 By whom? State of Utah  
Has the agency acted? YES ☒ NO ☐ If so, when? January 31, 2006
- e. Are any other cases involving the same underlying agency order pending in this Court or in any other Court?  
YES ☒ NO ☐ If YES, identify case name(s), docket number(s), and court(s):  
Ohngo Gauden Devia v. Nuclear Regulatory Commission, No. 05-1419 (D.C. Circuit); State of Utah v. Nuclear Regulatory Commission, No. 06-1087 (D.C. Circuit)
- f. Are any other cases, to counsel's knowledge, pending before the agency, this Court, another Circuit Court, or the Supreme Court which involve substantially the same issues as the instant case presents?  
YES ☒ NO ☐ If YES, give case name(s) and number(s) of these cases and identify court/agency: \_\_\_\_\_
- g. Have the parties attempted to resolve the issues in this case through arbitration, mediation, or any other alternative for dispute resolution? YES ☐ NO ☒ X If so, provide the name of the program and the dates of participation. \_\_\_\_\_

Signature Roy T. Englert, Jr. Date 4-17-2006  
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