

Holtec-CISFEISCEm Resource

From: Kevin Kamps <kevin@beyondnuclear.org>
Sent: Monday, July 30, 2018 10:50 PM
To: Holtec-CISFEIS Resource
Subject: [External_Sender] Enclosure #11, attached, re: Docket ID NRC-2018-0052:
Holtec/ELEA's proposed CISF is a violation of environmental justice – that is, it is
environmental racism, radioactive racism (submitted by Kevin Kamps, Beyond Nuclear)
Attachments: goshutepfstimeline061405.pdf

Per my preceding email.

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Beyond Nuclear aims to educate and activate the public about the connections between nuclear power and nuclear weapons and the need to abolish both to safeguard our future. Beyond Nuclear advocates for an energy future that is sustainable, benign and democratic.

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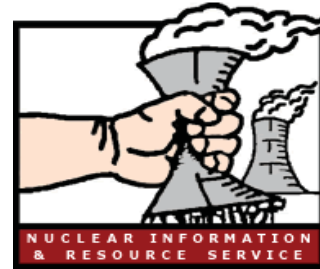
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Skull Valley Goshutes/PFS Timeline

The PFS lease, which is the foundation of this proposed project, is not a valid document.

- 1) The PFS lease has never been voted on and approved by the Tribe's General Council, which is supposed to make all governing decisions, especially about such important matters. The lease has only been signed by Leon Bear, the disputed Tribal Chairman, and two other members of the Tribe's executive committee, who have since disputed his leadership and called the lease illegitimate.¹ The terms of the lease, including the amount of financial compensation to the Tribe, have also never been revealed to the General Council.
- 2) Beginning in 1994, the elections of Goshute Tribal leadership have been controversial and disputed. The Bureau of Indian Affairs (BIA) has contributed significantly to these election and Tribal leadership problems, and the legitimacy of those who claim power within the Tribe is questionable.² According to Skull Valley Goshute traditions and procedures, only properly elected Tribal officers have any authority to conduct tribal business, collect or spend Tribal money, sign agreements for the Tribe, or otherwise speak or act for the Tribe. Even then, Tribal officers can only act with explicit General Council approval.
- 3) The quorum system (a majority vote by at least half of the adult members of the tribe), traditionally used by the Tribe's General Council for making important decisions, has been discarded (without a quorum vote) by the disputed Chairman Leon Bear, and decisions are now made by a three-person executive committee dominated by him.

Timeline Documenting and Supporting These Problems:

Before 1992: Lawrence and Richard Bear, Chair and Vice Chair of the Skull Valley Goshute Tribe, begin to make decisions without the approval, support, or even knowledge of the General Council (the General Council refers to the entire adult membership of the Skull Valley Band). They hire a "Tribal attorney" (a non-Indian named Danny Quintana, who first notified the Bears of the waste storage opportunity and stood to pocket a large share of the money the project would bring), create an unauthorized Tribal office of Project Manager (making Leon Bear the head of it), and proceed to get involved in the U.S. Office of the Nuclear Waste Negotiator's Monitored Retrievable Storage (MRS) Project using Tribal funds without informing and getting the approval of the General Council.³ A leading tribal dump opponent and General Council member, Margene Bullcreek, first learns of the MRS now targeted at her community in the newspaper.

1992: A Phase I grant of \$100,000 from the Office of the Nuclear Waste Negotiator is awarded to the Tribe to investigate the benefits and impacts of siting a MRS at Skull Valley, although the General Council has never approved involvement in this project. The Bear leadership begins to "accumulate data", and to travel to various parts of the United States and the world to "examine

first hand” all aspects of storage of irradiated nuclear fuel.⁴ Tribal opponents to the Bear regime and dump plan criticize these trips as “wining and dining” extravaganzas.

December 20, 1993: Dissatisfaction with the Bear leadership grows, and a recall election is called, consistent with Tribal procedure.⁵

January 8, 1994: The recall meeting is held with a quorum of the General Council (a quorum requires that more than half of the Tribe’s adult members attend, and indeed 43 of 70 are present). Tribal officers (Lawrence Bear, Chairman and Richard Bear, Vice Chairman) are voted out of office by the majority of voting members present. Leon Bear is recalled but not replaced, because his so-called office had never been authorized. In a second vote by the General Council, Bert Wash is elected Chairman and Sammy Blackbear Vice Chairman (for four-year terms). The General Council also passes a resolution rejecting Danny Quintana as “Tribal attorney”, and asserting that he has never represented the Tribe in any way whatsoever.⁶

January 13, 1994: There is a meeting at U.S. Bureau of Indian Affairs (BIA) Headquarters in Utah concerning the recall election. All parties agree that the election was legitimate and valid⁷, but BIA says it will not certify the election until it polls the Tribal General Council members. Danny Quintana claims that all voting members of the General Council were not properly notified of the recall meeting. BIA asserts that all members should have a chance to vote for leadership, and thus a poll should be done to investigate this allegation. There is not adequate evidence, or legal basis in BIA procedure, given for this interference in an internal Tribal election.⁸

January 31, 1994: BIA finds the poll to be a tie (between those desiring a new election because some members of the General Council may not have been notified, and those that were content with the recall and the elected Wash/Blackbear leadership). BIA thus asserts that the status quo should continue, which by its own definition would mean a Wash/Blackbear leadership.⁹ Instead, BIA announces that Lawrence, Richard, and Leon Bear are still the Tribal officers. Later, in mid-March, when asked to produce the mailed-in poll ballots, the mailing list, and the list of those returned, etc., BIA says that it is unable to do so, because all of the documents have been destroyed.¹⁰

February 19, 1994: BIA allows the Bear officers to decide whether a new election should be held. A February 19th meeting is called. The meeting, however, devolves into a type of rigged election, with half of the General Council walking out in protest, and an election process that follows without a quorum or open nominations. There are also violations of other election rules. BIA and BIA police are present and enforce the authority of the Bears and allow Tribal procedure to be ignored.¹¹ Leon Bear improperly introduces a resolution in favor of the MRS project. Ten people sign it. After this meeting, BIA officially declares that the recall and the Wash/Blackbear election were not valid. The BIA's justification for this new position is that elections for new Tribal officers should not be held at the same meeting as the recall of the prior officers. This is another instance of making up arbitrary and capricious rules in the middle of the game.

March 1994: A General Council Resolution (of questionable legitimacy) is passed to allow the Goshute Executive Committee to negotiate an agreement with the Federal Government to site a MRS project on the Skull Valley Reservation. This resolution stipulates that once the final agreement has been drafted, the Executive Committee will not sign any documents until the General Council has seen the document and voted to approve the terms and “benefits”.¹²

December 26, 1996: Without the knowledge or approval of the Skull Valley Goshute General Council, Leon Bear signs a preliminary lease agreement with Private Fuel Storage, LLC (PFS) for an undisclosed amount of money. (PFS had first formed in the aftermath of the U.S. Nuclear

Waste Negotiator's failure to open an MRS at the Mescalero Apache reservation in New Mexico, and the subsequent dissolving of the Negotiator's Office in 1994. When PFS also failed at Mescalero in 1996, it immediately began to target the Skull Valley Goshutes.) According to official Tribal rules, the General Council has the exclusive authority to approve and authorize such leases and agreements concerning Tribal land. The General Council has never even seen in its entirety, let alone approved or authorized, the PFS lease agreement. Therefore, the PFS lease agreement is unlawful.

May 1997: Leon Bear, Mary Allen, and Rex Allen, disputed Chair, Vice Chair, and Secretary of the Skull Valley Goshute Tribal Executive Committee, sign an official lease agreement with PFS, again without General Council approval.¹³ The BIA approves the lease three days later without proper administrative review to support the approval.¹⁴

1999: PFS enters into an undisclosed monetary agreement with resistant local cattle ranchers - Skull Valley Co. and Castle Rock Land and Livestock - who had officially intervened in the U.S. Nuclear Regulatory Commission (NRC) licensing process with contentions against the dump.¹⁵ After the settlement, these contentions were dropped. PFS's strategy is simple: use the vast monetary resources at its disposal to buy out any potential opposition to locate a dump on the reservation.

May 2000: PFS signs a deal with Tooele County, the county in Utah surrounding the Skull Valley Goshute Reservation, in exchange for support of the dump. The agreement would provide the county at least \$90 million, and possibly more than \$200 million, over the supposedly maximum 40 years that irradiated nuclear fuel could be stored on the Skull Valley Goshute Reservation. The county commissioners who were signatory to that contract are obligated within the contract not say anything negative about PFS that might restrict or hinder PFS from moving forward in their license with the NRC.¹⁶

August-September 2001: Another election is held to recall and elect Tribal leadership. As before, the validity of the proceedings is disputed. In this case, the Bears refuse to participate in the election, and Sammy Blackbear, Miranda Wash, and Marlinda Moon are elected. Leon Bear asserts that the election is without quorum, and not valid for various reasons. Outraged and frustrated by the past 8 years of conflict and corruption, and by Leon Bear's agreement with PFS to store all of this waste on their reservation, Blackbear, Wash, and Moon assert their leadership and try to enforce their election. They take several steps to take control of Tribal business and Tribal funds.

December 2003: Leon Bear is indicted on three counts of tax evasion, two counts of theft from the tribal organization, and one count of theft concerning programs receiving federal funding.¹⁷ His trial is set for April 2005 and several Tribal members are set to testify against him in hopes that this trial will bring both attention and clarity to what has gone on in Skull Valley over the past ten years.

April 2005: The U.S. Attorney's Office allows Leon Bear to plead guilty to reduced charges. As a result, Bear admits to filing a false federal tax return and agrees to pay back some money to the IRS. He also agrees to pay back the tribe \$25,242 for money he received in duplicate stipends and another \$6,300 for money that he wrongfully took. He is accused of having stolen a total of \$160,952.¹⁸ The NRC's Atomic Safety Licensing Board considers an appeal by the State of Utah to the preliminary license approval granted on Feb. 24, 2005. The five-member Commission is to make the final licensing decision. Opponents to PFS fear NRC will approve the license in the near future, but vow to fight on in the federal agencies and courts.

For more information please contact:

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References

¹ By 2003, the Rex and Mary Allen – formerly tribal Secretary and Vice Chairperson, respectively -- have become some of Bear's fiercest critics, claiming he has no authority to lead the Tribe. In exchange for immunity from federal prosecutors, they agreed to testify against Bear regarding the embezzlement and tax fraud charges against him.

² BIA has repeatedly interfered in internal Tribal affairs arbitrarily and capriciously. In 1994, the Bureau intervened in the recall election in an inappropriate and unfair manner, and subsequently “lost” all documentation of their involvement. BIA also took an inappropriate role at subsequent tribal elections, continually recognizing Leon Bear as Tribal Chairman, and allowing Tribal meeting and election procedures to be disregarded. At present, the problem is that there are no existing regulations or statutory standards defining the appropriate procedures BIA must follow regarding internal tribal disputes. A lack of such defined procedures (and other means to redress grievances) limits the accountability of BIA to Tribes, and of Tribal governments to their people. This undermines the democracy and fairness of the Tribal system. Tribal disputes should be settled by an independent judicial system, the U.S. judicial system, and/or at the very least by a consistent and fair set of similar BIA procedures. After centuries of violence, oppression, and inconsistent policy, the U.S. Government has left Tribes vulnerable. The Skull Valley Goshute Tribe, for instance, is ripe for abuse and interference, as it is small, has no written constitution and no independent judicial system. See endnote 8 below for more information.

³ Blackbear, Sammy. “Declaration of Sammy Blackbear”, June 28, 2001, 39.

⁴ “Project History.” The Skull Valley Goshutes. 15 Apr. 2005 <http://www.skullvalleygoshutes.org>.

⁵ Blackbear, Sammy. “Declaration of Sammy Blackbear”, June 28, 2001, 39.

⁶ Blackbear, Sammy. “Declaration of Sammy Blackbear”, June 28, 2001, 40.

⁷ Blackbear, Sammy. “Declaration of Sammy Blackbear”, June 28, 2001, 41.

⁸ There have been problems with BIA intervention in the internal affairs of many tribes. The BIA’s mission is to fulfill its trust responsibilities and promote self-determination on behalf of Tribal Governments, American Indians and Alaska Natives. Interference in internal Tribal matters conflicts with this mission. The problem is that there are no existing regulations or statutory standards defining the appropriate procedures that the BIA must follow when deciding to intervene in an internal Tribal dispute. At present, the BIA regularly makes such decisions in secret, on a completely ad hoc basis, without notice to any affected parties, and without any kind of public hearing whatsoever. When a Tribal government possesses a judiciary with jurisdiction to resolve an internal political dispute, the BIA is without any jurisdiction to intervene. Many Tribes, however, have no established judiciary system. For more information, please see “Time to Abolish the Bureau? – Proposed Legislative Response to BIA Abuses at CNO” by Dario Robertson, Legal Correspondent, Cherokee Observer.

⁹ Bureau of Indian Affairs. Letter to Skull Valley Goshute Tribe General Council Members (Accompanying Ballot). 19 Jan. 1994.

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- ¹⁰ Blackbear, Sammy. "Declaration of Sammy Blackbear", June 28, 2001, 47.
- ¹¹ Blackbear, Sammy. "Declaration of Sammy Blackbear", June 28, 2001, 45.
- ¹² Blackbear, Sammy. "Declaration of Sammy Blackbear", June 28, 2001, 53.
- ¹³ Miller, Phil. "Goshutes Protest Tribe's Nuclear-Waste Proposal." Salt Lake Tribune 1 June 1997: B1.
- ¹⁴ The Purported Lease Agreement was received by BIA/Department of Interior on May 20, 1997, and preliminarily approved three days later. The BIA claims to have no record of the process used to review the lease. The rubber stamped approval of such an important document violates the BIA's trust responsibility to the Skull Valley Goshute Tribe and its individual members.
- ¹⁵ Norell, Brenda. "Skull Valley Nuclear Dump on Fast Track: Landowners Drop Fight But Governor Does Not." Indian Country Today 5 Feb. 1999.
- ¹⁶ Fahys, Judy. "Tooele Signs Deal for N-Waste." Salt Lake Tribune 25 May 2000: B1.
- ¹⁷ Blackbear, Marlinda Moon, Miranda Wash and their attorney are also charged with embezzlement and bank fraud for taking control of Tribal money after the September 2001 election without having BIA recognition. Blackbear, Moon, and Wash claim they were elected at that time, and acted to take control of Tribal money away from Leon Bear, who was both misusing and stealing the funds.
- ¹⁸ Henetz, Patty. "Bear pleads guilty to U.S. tax charge." Salt Lake Tribune 15 Apr. 2005.