CASE STUDY

Un-American or Very-American?: The Goshute Nuclear Waste Repository

David R. Keller
Utah Valley State College

When a small Native American tribe plans to store radioactive waste on its reservation as part of a $3 billion project, complex tensions and agreements arise between county, state, and federal governments, environmentalists, corporations, American Indians, and others.

Roaming the Great Basin of Utah and Nevada, the Goshute people once numbered near 20,000, but by the mid-nineteenth century the tribe had been decimated by disease, violent clashes with settlers, and encroachment of habitable land by European immigration and development. In 1863, Goshute leaders signed a treaty with the United States government granting sovereignty of a 17,777 acre reservation in Skull Valley about 60 miles southwest of Salt Lake City (see Figure 1), currently making it one of 554 autonomous "nations" within the borders of the United States. (Another Goshute reservation is located on the Utah-Nevada border near Wendover.) By the end of the twentieth century, the total number of Goshute had dwindled to 600 — the number of Skull Valley Goshute to 120. About 30 of the 120 live on the Skull Valley reservation; the rest are scattered throughout northern Utah and elsewhere.

Few economic opportunities exist on the reservation. Like other Native American nations, the Skull Valley Band of the Goshute (the tribe's formal name) has been interested in nuclear waste storage since the late 1980s and early 1990s when the federal government awarded Native American tribes with grants to study the feasibility of temporary nuclear waste storage. In a 1992 report describing the findings of the tribe's investigation into the issue of nuclear waste, Goshute leaders wrote:

> European Americans must re-examine their lifestyles and ask how we can co-exist with the environment. They must understand[,] as Chief Seattle warned over a century ago[,] that man is only a strand in the web of life. The real political question which every American politician is avoiding is [whether] Americans really need to conspicuously consume energy to have this standard of living?

Probing further into the issue of nuclear waste storage, Goshute leaders visited repositories in Canada, France, Britain, Sweden, and Japan. Under the direction of Leon Bear, Executive-Committee Chairman of the Skull Valley Goshute, tribal leaders became convinced of the safety of repository technology. On May 20, 1997, the tribe agreed to lease 40 acres to Private Fuel Storage (PFS), a private consortium of electric utility companies, to store high-level radioactive waste for 20 years, with an additional 20-year option. In June 1997, PFS applied to the Nuclear Regulatory Commission's Atomic Safety Licensing Board for a permit to build a storage facility, and the application was approved a year later. In May 2000, local county officials struck an agreement with PFS. It is expected that the first shipments of waste could begin arriving in 2003. In order to promote the idea of the repository, proponents opened a website at *www.skullvalleygoshutes.org*.

The plan calls for shipping 40,000 metric tons of uranium to the repository for temporary storage, overseen by PFS. The spent nuclear-reactor fuel rods would be encased at reactor sites in 4,000 stainless steel casks, transported by train to either Timpie or Low along Interstate 80, and loaded onto trucks or trains for the final twenty-five mile trip south to the storage site. At the facility, the casks would be placed in above-ground concrete vaults, where they would remain until a permanent facility opens. PFS has been set up as a limited liability corporation, so should an accident occur in the transportation, storage, or removal of the radioactive material, the Eastern, Midwestern, and West-coast utilities which comprise the consortium would not be legally or financially liable.

The estimated cost of the project exceeds $3 billion. The Goshute's remuneration is confidential, but sources say each tribal member should receive between $100,000 and $2 million. Tooele (pronounced TO-WIL-AH) County, where Skull Valley is located, is also slated to benefit fiscally: PFS has agreed to

pay the county $500,000 a year in lieu of property taxes, and $3,000 for each cask brought to the site, eventually totaling $12 million. Prior to completion of the facility, the county will receive $5,000 per month for education.

The Goshute-PFS contract has sparked widespread criticism from Utah State officials, environmentalists, Native Americans, and others. In particular, assertions of Goshute sovereignty have irked Utah politicians. According to Utah Representative Merrill Cook, whose congressional district borders Skull Valley,

> Something is dead wrong when a small group of people can ignore the will of 90 percent of our state[.] I don't think this is what the Founding Fathers had in mind. It's just not right, this use of sovereignty. The implications are frightening for us as a nation.

Echoing Cook's sentiment, some members of Congress have described Native American sovereignty as "un-American."

The State of Utah adamantly opposes the Goshute-PFS agreement. Citing his own family's experiences with radiation during World War II-era open-air nuclear testing, Governor Michael Leavitt vowed in 1993 that the repository would only be built "over my dead body." In April 1997, Leavitt formed a special task force — the High Level Nuclear Waste Storage Opposition office — with the sole goal of killing the Goshute-PFS project. Over the duration of the controversy, Leavitt has raised numerous objections. The waste is most likely dangerous, Leavitt reasons, else the utilities would not be so intent on getting rid of it. Since Utah has no nuclear reactors, Utah should not be responsible for other states' nuclear waste. Moreover, PFS could pull out of the contract once the uranium reaches the facility, leaving Utah State taxpayers with the burden. Or the U.S. Senate could fail to override President Clinton's threatened veto on a bill designating a permanent storage site at Yucca Mountain, Nevada, leaving the Skull Valley waste with no where to go. Leavitt's fears that "temporary" may become "permanent" have been given credence by Arjun Makhijani, President of the Institute for Energy and Environmental Research. As he puts it,

> the Department of Energy never met a repository location it didn't like. Once you take all the trouble of taking the waste to a certain

> place, I have a sneaking suspicion they will find geological virtues nobody knew existed [and bury the waste in Skull Valley].

Backed by Leavitt, efforts by Utah State officials to derail the PFS project have been herculean. Hamstrung by the issue of Indian sovereignty, the Leavitt administration has been forced to focus on keeping the waste from getting to the site rather than inhibiting the Goshutes from entering into a contract with PFS. This strategy has included Representative Cook's attempt to block the trucking of the uranium from Timpie to the facility with the Hazardous Waste Transportation Act, Utah House Transportation Committee legislation decreeing state control of the road leading to the reservation, and a Utah Senate bill aimed at levying exorbitant tolls on trucks hauling the waste.

Environmentalists also have voiced strong opposition to the repository. Skull Valley is proximate to several other hazardous sites: Tooele Army (Deseret Chemical) Depot, home to the nation's largest stockpile of chemical weapons, lies just to the east over the Stansbury Mountains; Dugway Proving Ground, a biological weapons testing and storage site, is to the southwest; Envirocare, a low-level radioactive waste dump, Grassy Mountain hazardous waste site, as well as several toxic waste incinerators, lay to the northwest; and Magnesium Corporation of America, which emits enough chlorine and sulfur dioxide to make Tooele County one of the ten most polluted areas in the country, is situated to the north. Therefore, the proposed facility can only make a bad situation worse, environmentalists contend. In the view of Steve Erickson of Utah Downwinders, an environmental group dedicated to nuclear issues, "It's time Americans stop operating under the misconception that they can deposit whatever they don't want out in the middle of the American desert."

Other factors complicate the issue. Private landowners along the route have complained. Skull Valley is prone to earthquakes and frequent wildfires. Reports surfaced and were confirmed that German casks similar to the PFS design had leaked. And concerns about a rail spur linking the Union Pacific line at Low with the storage site (a move intended to circumvent state restrictions on the highway from Timpie to the reservation) have been raised on ecological and archeological grounds. Southern Utah Wilderness Alliance, a conservation group, protests that the proposed rail line runs through wilderness study areas in

the Cedar Mountains. M. Lee Allison, director of the Utah Geological Survey, has also warned that the line could destroy archaeological sites.

In addition to politicians, environmentalists, and others, the Goshute-PFS agreement has also outraged Native Americans — both from within and without the Skull Valley Band. Margene Bullcreek, who lives three miles from the proposed site, believes that the repository is inconsistent with traditional Indian respect for the land. "It's about being in harmony with our creator, and showing Him we do not wish to spoil His gift to us." Explaining why she organized a "spiritual run" from Skull Valley to Salt Lake City (including members from Arapaho, Goshute, Navajo, Paiute, and Ute tribes), Bullcreek said, "I'm going to stand up and try to have my people understand that nuclear storage is not an economic salvation when in fact it might be the ruin of our land." Sammy Blackbear, also a member of the Skull Valley community, alleged that Bear used money from the out-of-state utilities to bribe fellow tribe members, sometimes with "thousands of dollars."

Dissension within the tribe calls into question the unanimity of support for the plan. Bullcreek asserts that tribal leaders have pushed ahead with plans without properly consulting the tribe. In 1997, Bear claimed that 95 percent of the tribe supported the plan, but in early 1999, more than half of the Goshutes living on the reservation joined a lawsuit against the Department of Interior's Bureau of Indian Affairs to overturn the lease agreement, claiming that the federal government failed to look after the well-being of the tribe.

Private Fuel Storage officials and Goshute leaders have repudiated the varied criticism. PFS spokesperson Scott Northard argues that the State of Utah is guilty of inconsistencies, noting officials raised no objection when spent fuel was shipped through Utah in 1996. "People's perceptions have been skewed. There's a lot of fear-mongering going on out there. This storage facility will be safe, environmentally sound and benign," Northard contends.

Leon Bear, part of a legal-savvy generation of leaders known for asserting the rights of Native Americans and promoting economic development more forcefully than their forebears, has been more pointed in his criticism of Utah State officials. Bear condemns the State of hypocrisy, because its conservative government has openly welcomed other hazardous waste facilities.

"People talk about environmental justice, but in Skull Valley we talk about environmental injustice. The impact [from the repository] will be a lot less than all the hazardous sites we already have around us." And worse than hypocrisy, Bear alleges that opposition to the Goshute-PFS plan is "blatantly racist:"

> Before Utah was even a state…my people signed a treaty with the federal government. We were granted a small reservation in Skull Valley — a piece of land no one wanted. We were placed out of sight and out of mind. During the past 50 years, the Utah and U.S. governments have built many hazardous-waste facilities and disposal sites near our reservation, even burying sheep killed by nerve gas on our tribal lands. Did either government ask for our permission? Of course not.

For Bear, the issue is the survival of his tribe. Denying the Goshute the right to pursue financial prosperity is tantamount to denying the Goshute the right to self-determination. When the lease expires, Bear maintains that the waste will not stay against the tribe's wishes.

Despite the opposition to the Skull Valley repository, plans continue to move ahead. In Leavitt's opinion, money has generated an unstoppable momentum:

> It's pretty clear that utilities are willing to spend billions to move [nuclear waste] out of their back yard and into ours. They were able to satisfy the needs of the Indian tribal nation with money. They were able to satisfy the needs of private landowners with money. They were able to satisfy the needs of the county with money.

In May 2000, Leavitt conceded that the State of Utah may not have the power to stop the project. Legally, the State of Utah has no jurisdiction over the Skull Valley Goshutes; by the treaty of 1863, the tribe has sovereignty over their land. Says Bear of Leavitt: "We respect his remarks. But we don't feel we're part of Utah. We're a sovereign nation."

David R. Keller is Director of the Center for the Study of Ethics, and Assistant Professor of Philosophy at Utah Valley State College.

Study Questions

(1) Should the repository be built? Why or why not? Is the influence of money in this case ethically reprehensible, laudable, or irrelevant?

(2) Morally speaking, is there any problem involved in the Utah State government actively promoting the disposal of toxic waste in Tooele County, and then opposing the Goshute plan?

(3) To what extent does Native American sovereignty threaten the integrity and stability of the United States of America? Is there a limit to the actions of a sovereign nation, like the Skull Valley Goshute, within its borders? Is there any problem involved in the Goshutes criticizing Euro-American civilization of gluttonous energy consumption, and then agreeing to store spent nuclear fuel?

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Figure 1

(From U.S. Geological Survey, *State of Utah*)