

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD PANEL

February 29, 2008 (10:00am)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Before Administrative Judges:
Ann Marshall Young, Chair
Dr. Richard F. Cole
Dr. Fred W. Oliver

In the Matter of

CROW BUTTE RESOURCES, INC.
(In Situ Leach Facility, Crawford, NE)

Docket No. 40-8943
ASLBP No. 07-859-03-MLA-BD01

AFFIDAVIT

I, Harvey Whitewoman, hereby state as follows:

1. I make this affidavit in support of Thomas K. Cook, Debra White Plume, Owe Aku, and Slim Buttes Agricultural Development Corporation, the indigenous petitioners in the above-referenced proceeding.

2. I have read the attached excerpted pages 317 to 319 of the Hearing Transcript from the January 16, 2008 Hearing in Chadron, Nebraska, which mentions my name and certain actions attributed to me.

3. I make this affidavit to correct certain mis-impressions created about my actions, especially any mis-impression that any concerns stated by me to Crow Butte Resources and its representatives were resolved because they were not resolved.

4. At the relevant time, I was the administrative assistant to Mr. Johnson Holy Rock, who was the Fifth Member of the Tribal Council of the Oglala Sioux Tribe. The office of the Fifth Member of the Tribal Council does not confer any authority to bind the Oglala Sioux Tribe (the "Tribe"). The Tribe may be bound only pursuant to the authority of the Tribal Council acting by resolution or the authority of the Tribal President.

5. We were unaware of the uranium mining in the nearby aquifer until we saw the notice sent to the Tribe concerning the proposed uranium mining expansion. Upon being so informed, Mr. Holy Rock sent a letter to Crow Butte Resources to inquire about the impact of the proposed project on the water quality of the Tribe.

6. I called the company in my capacity as administrative assistant to Mr. Holy Rock and I identified myself as acting in that capacity to follow up on our letter and spoke with someone from their Denver, Colorado office. I asked about the proposal and

the company representative described the process of the In Situ Leach mining to me. At no time were the concerns that were expressed by Mr. Holy Rock or myself addressed or resolved in any manner whatsoever. Nor did Mr. Holy Rock or myself have any legal authority to act on behalf of the Tribe with regard to such concerns except to communicate them to the company.

7. There is a legal mechanism for formal consultations with the Tribe involving formal notice to the Tribe and the Department of Interior, Bureau of Indian Affairs ("BIA"). Nothing about my interactions with the company can be possibly construed as a formal consultation.

8. To my knowledge, no notice was provided to the Tribe or the BIA with regard to a formal consultation concerning the affect on the water by the uranium mining by the company.

9. To an indigenous person such as myself, a member of the Oglala Sioux Tribe and of the Great Sioux Nation, the nature of water has cultural and spiritual significance and value that is much greater than its use and value as a vital natural resource. In Lakota language, we honor "*mni*" which means the "water" itself, as well as "*mni wiconi*" which means "water of life," and "*mni wakan*" which means "sacred water" or "holy water."

10. This means that we honor the "*mni*" as water for drinking, bathing, domestic, farming and other benign uses and it has a value to us for such purposes. Under the "*Winters Doctrine*" we are entitled to as much of this "*mni*" as is necessary for us to live on the Pine Ridge Indian Reservation our right is a federal water right that is superior to any state law water rights, including the water rights of the company, if any.

11. This means that we also honor the "*mni wiconi*" which is the water of life that we drink as a medicine during sacred prayer ceremonies like the "*inipi*" (sweat lodge ceremony). This also means that there is a life and spirit in the water which we, as indigenous people, recognize and commune with and pray with and we know its healing power.

12. This means that we also honor the "*mni wakan*" which is the sacred water used to conduct sacred prayer ceremonies like the "*inipi*" ceremony. This means that the sacredness of the spirit of the water is recognized by us as indigenous people.

13. At no time did the company or its representatives mention that a pre-historic Indian camp or Indian artifacts had been found at the proposed site of the expansion. This means that there may be Indian graves or other Indian artifacts at the site that are of historic and/or cultural significance.

This Affidavit is submitted in accordance with 10 C.F.R. Section 2.304(d) and 28 U.S.C. Section 1746. I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 19, 2008 at Pine Ridge, at Pine Ridge Indian Reservation.


HARVEY WHITEWOMAN