

January 15, 2010 (8:19 p.m.)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Joseph American Horse, Sr.
POB 941
Pine Ridge, SD 57770

David Frankel
101 Walnut Street
Buffalo Gap, SD 57722

Thomas Kanatakeniate Cook
1705 S Maple
Chadron, NE 69337

Debra White Plume
POB 71
Manderson, SD 57756

Loretta Afraid of Bear Cook
1705 S Maple
Chadron, NE 69337

Owe Aku, Bring Back the Way
Attn: Debra White Plume
P. O. Box 325
Manderson, SD 57756

Ted P. Ebert
538 Albany Avenue
Hot Springs, SD 57747

Aligning for Responsible Mining
POB 3014
Pine Ridge, SD 57770

January 15, 2010

Request for Sensitive Unclassified Non-Safeguards Information (SUNSI) regarding Source Materials License Application for the Dewey-Burdock In Situ Recovery Facility in Fall River and Custer Counties, South Dakota

Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
Attention: Rulemakings and Adjudications
Staff
HearingDocket@nrc.gov

Associate General Counsel for Hearings
Enforcement and Administration
Office of the General Counsel
Washington, DC 20555-0001
OGCmailcenter@nrc.gov

Dear NRC:

We are writing to request access to Sensitive Unclassified Non-Safeguards Information (SUNSI) as potential parties who intend to seek to intervene in and expect to have standing in the case regarding Source Materials License Application for the Dewey-Burdock In Situ Recovery Facility in Fall River and Custer Counties, South Dakota, in accordance with 10 CFR 2.309 and the Federal Register notice of hearing and opportunity to petition for leave to intervene (Vol. 75, No. 2, Tuesday, January 5, 2010).

The Indigenous potential parties below assert that pursuant to federal Indian law, including the trust responsibility and the Winters Doctrine, the 1851 and 1868 Ft. Laramie Treaties, the UN Declaration of Indigenous Rights, the IPCCR, the NEPA, the NHPA, the AEA, and the AIRFA, and NAGPRA, they will have standing and admissible contentions regarding the potential impact of the mining project proposed by Applicant. Petitioners further respectfully submit that pursuant to federal Indian law, the 1851 and 1868 Ft. Laramie Treaties, the UN Declaration of

Indigenous Rights, the NEPA, the NHPA, the AEA, the AIRFA, and NAGPRA, Applicant has failed to take reasonable steps to ensure meaningful consultation with the Lakota elders, or the Oglala Sioux Tribe.

The non-indigenous potential parties below assert their rights as citizens and members of the public.

Specifically, these potential parties have received the expert opinion of Louis A. Redmond, PhD, of Red Feather Archeology (attached as Exhibit A) that:

...in the majority of areas that are defined by either current or extinct water resources, there is a high degree of probability of encountering both historic and prehistoric cultural remains, to include human burials.

The foregoing expert opinion means that these potential parties' interests in preserving graves, bones, artifacts and related cultural resources require full disclosure of all SUNSI documents related to cultural resources and these current or extinct water resources of the region so that the archeological value of the proposed mine site may be evaluated by the public and these potential parties.

Joseph American Horse, Sr. is a resident of Pine Ridge Indian Reservation, and uses water from the Arikaree aquifer for bathing, drinking, domestic and gardening. He receives mail at POB 941, Pine Ridge, SD 57770. Joe American Horse, Sr., is the grandson of Chief American Horse, who was a headman, military leader and signatory to the Fort Laramie Treaty of 1868. Joe American Horse is a former two-term President of the Oglala Sioux Tribe, currently serves as an Associate Justice of the Oglala Sioux Tribe Supreme Court and is commonly known as Chief Joe American Horse. Joe American Horse, Sr. has participated in sacred ceremonies throughout his life. Joe American Horse, Sr., also participates for at least 20 continuous years in the *inipi*, or "sweat lodge" ceremony at Slim Buttes, Pine Ridge Indian Reservation. Slim Buttes is located along the White River and the wells at Slim Buttes draw water from the Arikaree aquifer. He is seeking access to SUNSI documents. As a citizen who uses water from an aquifer that will be affected by the proposed mining due to the interconnection between the mined aquifer and the Arikaree¹, his health and safety are foremost among his particularized interests that could be harmed by the construction and operation of mining units at Dewey-Burdock. In addition, as an elder of the American Horse Tiospaye, he has an interest in seeing that the cultural resources of the Oglala Lakota are preserved and that there is compliance with the provisions of the Treaty of Ft. Laramie of 1851 and the Treaty of Ft. Laramie of 1868 and applicable provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 USC Sections 3001-3013 as well as the American Indian Religious Freedom Act (AIRFA), 42 U.S.C. 1996, the International Covenant on Civil and Political Rights (ICCPR),

¹ By virtue of cracks, faults, fractures and brachian tubes that connect the region's water resources.

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adopted by General Assembly Resolution 2200A (XXI), December 16, 1966, entered into force March 23, 1976 in accordance with Article 49 thereof; ratified by US Senate, 102nd Cong. 2nd Sess., Exec. Rept. 102-23 (March 24, 1992); <http://www2.ohchr.org/english/law/ccpr.htm>, and the UN Declaration on the Rights of the World's Indigenous Peoples ("Declaration"), Article 32 (General Assembly Resolution A/61/L.67 of 7 September 2007).

American Horse Tiospaye, by Joe American Horse, Sr., is an extended family organization of the related families, or *Tiwahe*, to Joe American Horse, Sr. and his brothers. The *Tiospaye* has been forced to suffer contamination of groundwater and surface water in and around Pine Ridge Indian Reservation. Joe American Horse, Sr., asserts all indigenous and treaty rights held by the members of his Tiospaye. The American Horse Tiospaye is seeking access to SUNSI documents for the same reasons as described above with respect to Mr. American Horse individually.

Debra White Plume of Manderson, Pine Ridge Indian Reservation. She receives mail at POB 71, Manderson, SD 57756. Debra White Plume is a great grandmother who has raised her family on her Tiospaye (extended family) land along the banks of Wounded Knee Creek. She is an enrolled member of the Oglala Sioux Tribe and descended from Chief Red Cloud on her father's side and Northern Cheyenne on her mother's side. She feels responsible as a mother, grandmother and great grandmother of generations to make a good home and environment and to preserve and hand down the Lakota way of life for her generations. Debra White Plume and her family drink water from a private well in the Arikaree aquifer, raise buffalo and horses and depend on groundwater from their land to be pristine so it can be used for medicine, sustenance and traditional ceremonies. She is seeking access to SUNSI documents. As a citizen who uses water from an aquifer that will be affected by the proposed mining due to the interconnection between the mined aquifer and the Arikaree, her health and safety are foremost among her particularized interests that could be harmed by the construction and operation of mining units at Dewey-Burdock. In addition, she has an interest in seeing that the cultural resources of the Oglala Lakota are preserved and that there is compliance with the provisions of the Treaty of Ft. Laramie of 1851 and the Treaty of Ft. Laramie of 1868 and applicable provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 USC Sections 3001-3013 as well as the American Indian Religious Freedom Act (AIRFA), 42 U.S.C. 1996, the International Covenant on Civil and Political Rights (ICCPR), adopted by General Assembly Resolution 2200A (XXI), December 16, 1966, entered into force March 23, 1976 in accordance with Article 49 thereof; ratified by US Senate, 102nd Cong. 2nd Sess., Exec. Rept. 102-23 (March 24, 1992); <http://www2.ohchr.org/english/law/ccpr.htm>, and the UN Declaration on the Rights of the World's Indigenous Peoples ("Declaration"), Article 32 (General Assembly Resolution A/61/L.67 of 7 September 2007).

Loretta Afraid of Bear Cook of Slim Buttes, Pine Ridge Indian Reservation and Chadron, Nebraska, she receives mail at 1705 S Maple, Chadron, NE 69337. Loretta Afraid of Bear Cook is a "Lakota Culture Bearer." Loretta Afraid of Bear Cook was born and raised at Slim Buttes, at Pine Ridge Indian Reservation. She is a traditional Lakota speaker and well-versed in issues of identification and preservation of Oglala Lakota cultural resources. She is seeking access to SUNSI documents. As a citizen who uses water from an aquifer that will be affected by the

proposed mining due to the interconnection between the mined aquifer and the Arikaree, her health and safety are foremost among her particularized interests that could be harmed by the construction and operation of mining units at Dewey-Burdock. In addition, as an elder of the Afraid of Bear/Cook Tiwahe, she has an interest in seeing that the cultural resources of the Oglala Lakota are preserved and that there is compliance with the provisions of the Treaty of Ft. Laramie of 1851 and the Treaty of Ft. Laramie of 1868 and applicable provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 USC Sections 3001-3013 as well as the American Indian Religious Freedom Act (AIRFA), 42 U.S.C. 1996, the International Covenant on Civil and Political Rights (ICCPR), adopted by General Assembly Resolution 2200A (XXI), December 16, 1966, entered into force March 23, 1976 in accordance with Article 49 thereof; ratified by US Senate, 102nd Cong. 2nd Sess., Exec. Rept. 102-23 (March 24, 1992); <http://www2.ohchr.org/english/law/ccpr.htm>, and the UN Declaration on the Rights of the World's Indigenous Peoples ("Declaration"), Article 32 (General Assembly Resolution A/61/L.67 of 7 September 2007).

Thomas Kanatakeniate Cook of Slim Buttes, Pine Ridge Indian Reservation and Chadron, Nebraska. He receives mail at 1705 S Maple, Chadron, NE 69337. Thomas Kanatakeniate Cook is employed as a field coordinator for Running Strong for American Indian Youth, serves as president of the Chadron Native American Center and has been a duly appointed member of the Nebraska Commission on Indian Affairs since 1999. During the 8 years that Mr. Cook and his family lived at Slim Buttes, they used a 30 foot groundwater well in the Arikaree and used the water from the White River on a daily basis. Mr. Cook and his family also ate fish from the White River and irrigated their family garden with water from the White River and the well and ate food from the gardens. Mr. Cook has participated and led sacred Lakota ceremonies including the *inipi* at Slim Buttes using water from the Arikaree, twice a week throughout the year since 2004. Mr. Cook also works with Slim Buttes Agricultural Development Corp. and Running Strong for American Indian Youth for 23 years to stimulate self-sufficiency through developing family and community vegetable gardens. Each year that work results in over 200 family gardens across Pine Ridge Indian Reservation and, in addition, Running Strong has drilled almost 400 water wells at Pine Ridge for use to irrigate family gardens. Such water wells draw water from the Arikaree. This work would be undermined to the extent that there is any contamination of the water supply, surface waters, or land that would make the wells toxic and the gardens unproductive or that would make the food from the gardens unhealthy. He is seeking access to SUNSI documents. As a citizen who uses water from an aquifer that will be affected by the proposed mining due to the interconnection between the mined aquifer and the Arikaree, his health and safety are foremost among his particularized interests that could be harmed by the construction and operation of mining units at Dewey-Burdock. In addition, as an elder of the Afraid of Bear/Cook Tiwahe, he has an interest in seeing that the cultural resources of the Oglala Lakota are preserved and that there is compliance with the provisions of the Treaty of Ft. Laramie of 1851 and the Treaty of Ft. Laramie of 1868 and applicable provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 USC Sections 3001-3013 as well as the American Indian Religious Freedom Act (AIRFA), 42 U.S.C. 1996, the International Covenant on Civil and Political Rights (ICCPR), adopted by General Assembly Resolution 2200A (XXI), December 16, 1966, entered into force March 23, 1976 in accordance with

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Article 49 thereof; ratified by US Senate, 102nd Cong. 2nd Sess., Exec. Rept. 102-23 (March 24, 1992); <http://www2.ohchr.org/english/law/ccpr.htm>, and the UN Declaration on the Rights of the World's Indigenous Peoples ("Declaration"), Article 32 (General Assembly Resolution A/61/L.67 of 7 September 2007).

Afraid of Bear/Cook Tiwahe, by Thomas Kanatakeniate Cook constitutes the organization of the married couple Thomas Kanatakeniate Cook and Loretta Afraid of Bear Cook, Loretta's mother, Beatrice Long Visitor Holy Dance, and their children, including Sakakohe Afraid of Bear Cook who suffers from an environmental illness related to contamination of the water at Slim Buttes. The *Tiwahe*, or family, has been forced to live away from their family lands which impairs their ability to live traditionally as a family on their family land. The *Tiwahe* has also suffered harm from environmental pollution of the groundwater from the Arikaree, surface waters and the White River. Mr. Cook also asserts all indigenous and treaty rights held by the members of his *Tiwahe*. The Afraid of Bear/Cook Tiwahe is seeking access to SUNSI documents for the same reasons as described above with respect to Mrs. Loretta Afraid of Bear Cook and Mr. Cook, individually and respectively.

Ted P. Ebert is a resident of Fall River County, South Dakota and believes that he uses water from the Inyan Kara aquifer for bathing, drinking, domestic and gardening. His address is 538 Albany Avenue, Hot Springs, SD 57747 and he receives mail at that address. He is seeking access to SUNSI documents. As a citizen who uses water from an aquifer that will be affected by the proposed mining, his health and safety are foremost among his particularized interests that could be harmed by the construction and operation of mining units at Dewey-Burdock. In addition, as a relation to the American Horse Tiospaye, he has an interest in seeing that the cultural resources of the Oglala Lakota are preserved and that there is compliance with the provisions of the Treaty of Ft. Laramie of 1851 and the Treaty of Ft. Laramie of 1868 and applicable provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 USC Sections 3001-3013 as well as International Covenant on Civil and Political Rights (ICCPR), adopted by General Assembly Resolution 2200A (XXI), December 16, 1966, entered into force March 23, 1976 in accordance with Article 49 thereof; ratified by US Senate, 102nd Cong. 2nd Sess., Exec. Rept. 102-23 (March 24, 1992); <http://www2.ohchr.org/english/law/ccpr.htm>.

David Frankel is a resident of Custer County, South Dakota and uses water from the Inyan Kara aquifer for bathing, drinking, domestic and gardening. His address is 101 Walnut Street, Buffalo Gap, SD 57722 and he receives mail at POB 143, Buffalo Gap, SD 57722. He is seeking access to SUNSI documents. As a citizen who uses water from an aquifer that will be affected by the proposed mining, his health and safety are foremost among his particularized interests that could be harmed by the construction and operation of mining units at Dewey-Burdock. In addition, as a relation to the American Horse Tiospaye, he has an interest in seeing that the cultural resources of the Oglala Lakota are preserved and that there is compliance with the provisions of the Treaty of Ft. Laramie of 1851 and the Treaty of Ft. Laramie of 1868 and applicable provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 USC Sections 3001-

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3013 as well as International Covenant on Civil and Political Rights (ICCPR), adopted by General Assembly Resolution 2200A (XXI), December 16, 1966, entered into force March 23, 1976 in accordance with Article 49 thereof; ratified by US Senate, 102nd Cong. 2nd Sess., Exec. Rept. 102-23 (March 24, 1992); <http://www2.ohchr.org/english/law/ccpr.htm>.

Also seeking SUNSI access is **Owe Aku – Bring Back the Way**, with members who expect to gain standing in the intervention, including those individuals listed here previously. Access to SUNSI is also sought for Debra White Plume, Executive Director of Owe Aku – Bring Back the Way, at POB 325, Manderson, SD 57756, also on behalf of members of Owe Aku – Bring Back the Way. Owe Aku is a nongovernmental organization dedicated to the preservation of the Lakota Way of Life, including our territories and environment. Debra White Plume is a Director of Owe Aku. Owe Aku works to preserve 1951 and 1868 Ft. Laramie Treaty Territory and our environment as part of Creation and are concerned with uranium mining and milling activities in and around the Black Hills including the proposed mining activities at Dewey-Burdock. Owe Aku endorses the Declaration on the Rights of Indigenous Peoples passed by the United Nations and actually participated in the drafting at Geneva Switzerland. Owe Aku is concerned with the health and future health of our people.

Also seeking SUNSI access is **Aligning for Responsible Mining**, with members who expect to gain standing in the intervention, including those individuals listed here previously. Access to SUNSI is also sought for Thomas K. Cook, Executive Director of Aligning for Responsible Mining, and David Frankel, Legal Director of Aligning for Responsible Mining, at POB 3014 Pine Ridge, SD 57770, also on behalf of members of Aligning for Responsible Mining.

Attorney David Frankel, is also seeking SUNSI access as legal counsel for the individuals and organizations referenced above. His business address is POB 3014, Pine Ridge, SD 57770, arm.legal@gmail.com.

Attorney Bruce Ellison, is also seeking SUNSI access as legal counsel for the individuals and organizations referenced above. His business address is Law Offices of Bruce Ellison, POB 2508, Rapid City, SD 57709, belli4law@aol.com.

All the individuals seeking SUNSI access have the technical competence, knowledge and skills to evaluate and use the information that would be made available. If need be, we agree to be bound by the terms of a Non-Disclosure Agreement or Affidavit and protective order setting forth terms and conditions to prevent unauthorized or inadvertent disclosure of SUNSI information.

The information provided in the Application's Environmental Report and Technical Report, especially information related to cultural resources and the potential for burial materials to be located at or near the proposed mine site is insufficient in order for us to meaningfully participate in the intervention process. The publicly available information does not specify extinct water

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resources near the proposed mine site or any information concerning cultural resources found within the proposed mining area.

Access to this information is critically needed for us to fully review the license application. We are trustworthy and reliable leaders in our community.

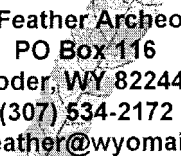
SUNSI regarding cultural resources is necessary in order for us to fully understand and effectively research the many issues of concern that we have identified and to effectively participate in the intervention process.

The trust responsibility requires that the NRC grant the request of the indigenous potential parties and that all interpretations in this matter of the regulations be in the manner most favorable to these potential parties and all interpretations of treaty matters must be in the manner that the indigenous persons would understand the provisions.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Frankel".

David Frankel
308-430-8160
arm.legal@gmail.com



Red Feather Archeology
PO Box 116
Yoder, WY 82244
(307) 534-2172
redfeather@wyomail.com

Date: January 14, 2010

To: David C. Frankel, esq.

Mr. Frankel,

As per your recent request, I have reviewed the areas or neighboring areas of concern dealing with current mining projects in the areas of the Black Hills and adjoining counties. It is my considered opinion that without an in-depth investigation of any of these areas, involving both surface and subsurface areas on at least a strong sampling effort, that there is the strong possibility of massive disturbance of cultural materials. This observation is based on several primary sources of investigation, but also the ***Black Hills National Forest: Cultural Resources Overview, vol. 1 synthetic summary***, edited by Lance Rom, Tim Church and Michele Church, dated 1996. My primary sources include several reports written by myself: ***A Level III Heritage Resource Survey for the Power Analysis Area on the Spearfish District of the Black Hills National Forest, Lawrence County, South Dakota; A Level III Heritage Survey of Selected Parcels within the Elk Bugs Planning Unit in Lawrence County, South Dakota; A Level III Heritage Resource Survey on 12 Grazing Allotments on the Harney/Pactola Ranger District, Black Hills National Forest, Pennington County, South Dakota; A Level III Cultural Resource Investigation of the Fiddle Creek Area on the Nebraska National Forest, Fall River County, South Dakota.*** I have worked in the area of the Black Hills and surrounding counties in several states for over 15 years as both a Federal archeologist, and a private archeological contractor. It has been my experience that in the majority of areas that are defined by either current or extinct water resources, there is a high degree of probability of encountering both historic and prehistoric cultural remains, to include human burials (see the above reports and overview). As both a professional archeologist and a responsible citizen of this region, I would find any degree of ground disturbance without some form of in-depth surface and subsurface investigation to be not only remiss, but disrespectful of our collective heritage. If there are any further questions or actions that you might require of me, please do not hesitate to contact me at the above address, telephone number and/or e-mail address.

Sincerely,



Louis A. Redmond, PhD
President/owner
Red Feather Archeology

LOUIS ARTHUR REDMOND, PhD
P.O. BOX 116
3153 WY State Highway 154
YODER, WY 82244
(307) 534-2172
e-mail: redfeather@wyomail.com

PERSONNEL INFORMATION:

EDUCATION:

- 2004: Graduate Study, Doctoral Program, at-a-distance, Canbourne University, London, UK
Degree awarded: Doctor of Philosophy (Anthropology)
- 1989-1990: Graduate Study, Doctoral Program, University of New Mexico, Albq, NM (Resigned, Studies Chairman retired)
Degree Awarded: None
- 1989 Graduate Study, Master/Doctoral Program, University of New Mexico, Albq, NM
Degree Awarded: Master of Arts (Anthropology) minor: Quaternary Studies
- 1987 B.S., Anthropology, University of New Mexico, Albq, NM (Magna cum Laude)
Degree Awarded: Baccalaureate of Science (magna cum laude)
(Major: Anthropology / Minor: Quaternary Studies)
- 1977-1978 Under Graduate Coursework, La Mesa Junior College, San Diego, CA
- 1974-1975 Coursework at Naval Explosive Ordnance Disposal School, Indian Head, MD/Charles County Community College, La Plata, MD in Nuclear Physics, Engineering Techniques and Improvised Explosive Device Technology
- 1974 **Associate of Arts, Education, El Paso Community College, El Paso, TX and Education Center, Ft. Bliss, TX**

ACADEMIC HONORS:

- Doctor of Philosophy, Department of Anthropology, Canbourne University, London, U.K., 2004**
- Master of Arts, Department of Anthropology, UNM, Albq, NM, 1989
- Teaching Assistant, Department of Anthropology, UNM, Albq, NM 1989
- Bachelor of Science (Magna cum Laude), Department of Anthropology, UNM, Albq, NM, 1987
- Distinguished Graduate, Senior NCO Course, Redstone Arsenal, AL, 1979
- Distinguished Graduate, Nuclear Phase, EOD School, Indian Head, MD, 1975
- Distinguished Graduate, Surface Phase, EOD School, Indian Head, MD, 1975
- Honor Graduate, NCO Academy, Ft. Hood TX, 1967
- Honor Graduate, Trainee Leadership School, Ft. Dix, NJ, 1963

PROFESSIONAL HONORS:

- 1995 USDA Certificate of Merit (Sacred Cow Award) , Implementation of Programmatic Agreements with State Historic Preservation Offices, South Dakota and Nebraska.
- 1994 USDA, Certificate of Merit, Organizing and Coordinating Forest Service and Volunteer project at Fiddle Creek Archeological District and Hudson-Meng Archeological Project.
- 1994 USDA, Certificate of Appreciation, Contributions to Ecosystem Management, Multiple Use, and Special Resource Emphasis on the Nebraska National Forest Units.
- 1994 USDA, Certificate of Appreciation, Washington Office, Contributions to Conserving and Managing Natural Resources and Advancing the Forest Service Volunteer-Related Services.
- 1994 R2, USFS, USDA, Certificate of Appreciation, Showcasing special projects for R2 office training.
- 1993 USDA, Certificate of Merit, Organizing and Coordinating the Hudson-Meng Archeological Project.
- 1992 USDA, Certificate of Appreciation, Assistance and Training of Foresters from Mall, Africa.

(Multiple professional awards from US Army, International Association of Bomb Technicians and Investigators, 1975-1985)

EMPLOYMENT HISTORY:

1995- **President**, Red Feather Archeology, Consultation and Training to Indian Tribes and Federal Agencies on NAGPRA, Tribal Historic Preservation Offices, Historic Preservation Laws; Survey and Evaluation of Archeological Resources; Evaluations of Historical/Archeological Significance.

1992-1995 **Heritage Program Manager**, Supervisory Archeologist, American Indian Special Emphasis Program Manager and Assistant Manager, Assistant Recreation Staff Officer, Forest Tribal Liaison Officer, Nebraska National Forest, Chadron, NE. **Supervisors:** Elizabeth Ohlrogge, Dalton Ellis

1991-1992 **Assistant Heritage Program Manager**, Supervisory Archeologist, Cibola National Forest, Albuquerque, NM **Supervisor:** Dr. Joseph Tainter

1989-1991 **Archeologist**, Survey Crew Chief, Cibola National Forest, Albuquerque, NM
Supervisors: Emily Garber, Dr. Joseph Tainter

1988-1989 **Archeologist**, Survey Crew Chief, Archeological Researches, INC, Albuquerque, NM
Supervisor: Christopher Nightingale

1988 **Archeologist**, Office of Contract Archeology, University of New Mexico, Albuquerque, NM
Supervisor: Dr. Daniel Amick

1963-1985 **United States Army**, Served in capacities from Rifleman in Europe and Asia to Enlisted Commander of the 259th Explosive Ordnance Disposal Unit at Fort Irwin, CA. Duties included assignments in Europe, Africa, Asia, South America, as well as North America. Various supervisory roles with responsibility for groups of 5 to over 200 persons at varying times. Administrative duties included: Squad/Team Leader, Platoon Sergeant, Platoon Leader, First Sergeant, Operations Sergeant, Enlisted Commander, Personnel Chief, Supply Sergeant, Property Book Officer, and Budget Manager. Budgets ranged to \$1.5 million dollars.
(More complete list on request)

FIELD EXPERIENCE:

1995- Principal Investigator, Red Feather Archeology, Inc; consultation with tribal groups on matters involving Heritage Preservation Laws and NAGPRA. Contracts on archeological survey and investigations for Federal Agencies and Indian Tribes. Also involved in peripheral studies of treaty implications for tribes and Federal Agencies. Contracting to provide para-archaeology training to tribal groups and agencies.

1992-1995: Heritage Program Manager/Principal Investigator, Nebraska N.F.; Site Manager, Hudson-Meng Archeological Project; Assistant Recreation Staff Officer; Forest Tribal Liaison Officer; American Indian Special Emphasis Program Manager/Assistant Manager, Nebraska National Forest, Chadron, NE

1991-1992: Principal Investigator/Assistant Heritage Program Manager, Supervisory Archeologist, Cibola N.F., Albuquerque, NM

1988-1991: Principal Investigator/Supervisory Archeologist, Cibola N.F. Albuquerque, NM

1987-1988 Survey supervisor, Archeological Researches, Inc, Austin, Tx, J.Neely & C.Nightingale, investigators

1988 Survey/excavation member/Dive Master, Econfina/Auchilla Rivers Off-shore Project, Northwest Florida, J.Dunbar, Florida Dept of State, & M.Faught, ASU, investigators (Marine Archeology)

1988 Survey/excavation member, Office of Contract Archaeology, University of New Mexico, Land exchange project, P.Hogan & D.Chapman, investigators

1987 Excavation member, volunteer, Stewart's Cattle Guard, D.Stanford & M.Jodry, investigators

1987 Excavation/Survey member, UNM Field School, SU Site, Reserve, NM, W.W.Wills, investigator

1985 Excavation/Survey member, UNM/NMSU Field School, Ramah, NM, F.Plog, S.Plog, & L.Cordell, investigators

AREA OF INTEREST:

I am primarily interested in North American Coastal Archeology as it pertains to the Paleo Indian/Archaic adaptations in the Western Hemisphere. I am also interested in pre-Paleo Indian sites that emphasize occupational patterning of the original Native peoples especially those sites that are currently submerged along the coastal plains of the Hemisphere or in high altitude areas (e.g. the Rocky Mtns.)

ORGANIZATIONS:

Society of American Archeologists
Association of American Archeologists
Wyoming Association of Professional Archeologists
Nebraska State Historical Society
United First People's Anthropological Association (co-founder)
Plains Anthropological Society
South Dakota Association of Professional Archeologists
South Dakota Archaeological Society
Keepers of the Treasures
Professional Association of Diving Instructors (Dive Master/Master Diver)
National Explosive Ordnance Disposal Association (Life Member)
Society of the Purple Heart (Life Member)
Disabled American Veterans (Life Member)
Veterans of Foreign Wars (Life Member)

PROFESSIONAL REPORTS: (short list)

- 2007 **A Cultural Resource Survey for Abraxas Petroleum Corporation Sites Desert Falcon, Canyon Hawk and Golden Eagle in Niobrara County in the State of Wyoming, Abraxas Petroleum Company, San Antonio, TX**
- 2007 **A Level III Heritage Resource Survey for the North Face Taylor Creek Fuels Treatment Project on the Custer National Forest in Powder River County, Montana.**
- 2007 **A Level III Heritage Resource Survey for the 10-mile Fuels Treatment Project on the Custer National Forest in Powder River County, Montana.**
- 2006 **A Level III Heritage Resource Survey for the Rampart Pod project in Campbell County, Wyoming for Quality Services, Rapid City, SD.**
- 2006 **A Level III Heritage Resource Survey for the New Prison Site in Goshen County, Torrington, WY.** Submitted to the town of Torrington, WY.
- 2005 **A Cultural Resource Survey for the Hoback Ranches Fuels Reduction Project on Bureau of Land Management Lands in Sublette County, Wyoming.** Submitted to the BLM, Pinedale, WY.
- 2005 **A Cultural Resource Survey for the Hoback Fuels Reduction Project on Bureau of Land Management Lands in Sublette County, Wyoming.** Submitted to the BLM, Cody, WY.
- 2004 **A Level III Heritage Resource Survey for the proposed First National Bank building site in Wheatland, Wyoming.** Submitted to the First National Bank, Torrington, WY.
- 2004 **A Level III Heritage Resource Survey for the Belltower Fire Restoration Area on the Sioux Ranger District of the Custer National Forest in Carter County, Montana.** Submitted to the Custer National Forest, Billings, MT.
- 2004 **A Level III Heritage Resource Survey for the FY 2005 Rescissions Project on the Custer National Forest in Harding County, South Dakota.** Submitted to the Custer National Forest, Billings, MT.
- 2004 **A Level III Heritage Resource Survey for the FY 2005 Rescissions Project on the Custer National Forest in Carter County, Montana.** Submitted to the Custer National Forest, Billings, MT.
- 2004 **A Level III Heritage Resource Survey for the FY 2005 Prescribed Burn on the Buffalo National River, Arkansas.** Submitted to the Buffalo National River, Harrison, AR.
- 2003 **A Level III Heritage Resource Survey for the Ekalaka Fuels Treatment Project on the Custer National Forest in Carter County, Montana.** Submitted to the Custer National Forest, Billings, MT
- 2003 **A Level I and Level III Heritage Resource Survey on Selected Parcels within the Higgins Gulch Range Allotment and evaluation of 4 Previously Record Sites on the Northern Hills**

- Ranger District, BHNF, Spearfish, SD.** Submitted to the Northern Hills Ranger District, BHNF, Spearfish, SD.
- 2002 **A Level III Heritage Survey of Selected Parcels within the Elk Bugs Planning Unit in Lawrence County, South Dakota.** Submitted to the Northern Hills Ranger District, BHNF, Spearfish, SD.
- 2002 **The Washboard Heritage Survey on the Mount Taylor District of the Cibola National Forest, New Mexico.** Submitted to the Cibola National Forest, Albuquerque, NM.
- 2001 **A Level III Heritage Resource Survey for the Power Analysis Area on the Spearfish Ranger District of the Black Hills National Forest, Lawrence County, South Dakota.** Submitted to the Black Hills National Forest, Spearfish, South Dakota.
- 2001 **A Level III Heritage Resource Survey of the Buford-New Castle Road Corridor Project.** Submitted to the White River National Forest, Glenwood Springs, CO.
- 2000 **A Level III Heritage Resource Survey of 94 miles of Shoreline in North and South Dakota within the exterior boundaries of the Standing Rock Sioux Reservation.** Submitted to the Standing Rock Tribal Historical Preservation Officer, Fort Yates, ND.
- 1999 **A Level III Heritage Resource Survey for the Dutchman Timber Analysis on the Black Hills National Forest, Pennington County, South Dakota.** Submitted to the Black Hills National Forest, Hill City, SD.
- 1999 **A Level III Heritage Resource Study for the 1999 Upper Blue Stewardship Project on the White River National Forest, Summit County, CO.** Submitted to the White River National Forest, Glenwood Springs, CO.
- 1999 **A Level III Heritage Resource Survey on 12 Grazing Allotments on the Harney/Pactola Ranger District, Black Hills National Forest, Pennington County, South Dakota.** Submitted to the Black Hills National Forest, Hill City, SD.
- 1998 **Test Excavations Performed at Four Archeological Sites in Garfield County, Colorado.** Report submitted to the White River National, Glenwood Springs, CO.
- 1998 **A Level III Archeological Survey of Selected Parcels for the Red Springs Timber Treatment Project, Eagle County, CO.** Report submitted to the White River National Forest, Glenwood Springs, CO.
- 1997 **A Level III Archeological Survey of Selected Parcels for the Cache Timber Sale, Eagle County, CO.** Report submitted to the White River National Forest, Glenwood Springs, CO.
- 1997 **A Level III Archeological Survey of Selected Parcels for the Yoder Timber Sale, Eagle County, CO.** Report submitted to the White River National Forest, Glenwood Springs, CO.
- 1997 **Archeological Survey of Selected Parcels in Alliance, Nebraska.** Report submitted to the Chadron Community Development Center in Chadron, Nebraska.
- 1997 **Level III Archeological Survey of Selected Parcels on the Wakpala and Kenel Districts of the Standing Rock Indian Reservation.** Report submitted to the Tribal Historic Preservation Office of Standing Rock Indian Reservation.
- 1996 **Level I Archeological Research of the Standing Rock Indian Reservation In Sioux County, North Dakota and Corson County, South Dakota.** Report submitted to the Tribal Historic Preservation Office of Standing Rock Indian Reservation.
- 1996 **Level III Archeological Survey of Selected Portions of the Shoshone National Forest along North Bennett Creek, Clark, WY.** Report submitted to Discovery Explorations, Inc. Denver, CO.
- 1996 **Implications of Treaty Language for National Grasslands Managed by the US Forest Service in Nebraska, North Dakota, South Dakota, and Wyoming.** Research paper prepared for Northern Grassland Forest Plan effort, Nebraska National Forest, Chadron, NE.

1988-1995 In excess of 300 technical field reports submitted for studies on the Cibola and Nebraska National Forests submitted to the SHPO's of New Mexico, Oklahoma, Texas, Nebraska & South Dakota.

Hearing Docket

From: David Cory Frankel [davidcoryfrankel@gmail.com]
Sent: Friday, January 15, 2010 8:18 PM
To: Docket, Hearing; OGCMailCenter Resource
Cc: Burrows, Ronald; Cohen, Stephen; VonTill, Bill; Yilma, Haimanot; C WHITE FACE; Deb White Plume; Bruce Ellison; Dugan; Tom Cook
Subject: Dewey Burdock SUNSI Request
Attachments: Dewey Burdock Sunsi Request 01152010 for ARM Parties.pdf; Exhibit A - RED FEATHER ARCHEOLOGY Expert Opinion.pdf; Lou Redmond CV Abbreviated.pdf

Dear Sirs,

Pursuant to the applicable Notice and SUNSI Order dated January 5, 2010, here is our SUNSI request by email and hard copy being sent by regular mail.

Also attached is Exhibit A referenced therein which is the expert opinion letter referred to in our SUNSI request.

Sincerely,

David Frankel
Legal Director
Aligning for Responsible Mining
POB 3014
Pine Ridge, SD 57770
Arm.legal@gmail.com
308-430-8160 cel

Received: from mail2.nrc.gov (148.184.176.43) by OWMS01.nrc.gov
(148.184.100.43) with Microsoft SMTP Server id 8.1.393.1; Fri, 15 Jan 2010
20:18:53 -0500

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X-SBRS: 4.4

X-MID: 11671137

X-fn: Dewey Burdock Sunsi Request 01152010 for ARM Parties.pdf,
Exhibit A - RED FEATHER ARCHEOLOGY Expert Opinion.pdf,
Lou Redmond CV Abbreviated.pdf

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:content-type;

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Fri, 15 Jan 2010 17:18:45 -0800 (PST)

Return-Path: <davidcoryfrankel@gmail.com>

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-0800 (PST)

User-Agent: Microsoft-Entourage/11.4.0.080122

Date: Fri, 15 Jan 2010 17:18:20 -0800

Subject: Dewey Burdock SUNSI Request

From: David Cory Frankel <davidcoryfrankel@gmail.com>

To: <HearingDocket@nrc.gov>, <OGCmailcenter@nrc.gov>

CC: "Burrows, Ronald" <Ronald.Burrows@nrc.gov>, Stephen Cohen

<Stephen.Cohen@nrc.gov>, "VonTill, Bill" <Bill.VonTill@nrc.gov>, "Yilma, Haimanot" <Haimanot.Yilma@nrc.gov>, C WHITE FACE <bhdefenders@msn.com>, Deb White Plume <lakota1@gwtc.net>, Bruce Ellison <belli4law@aol.com>, Dugan <dugan@wavecom.net>, Tom Cook <slmbttsag@bbc.net>
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