



**Third Meeting
2005 Interim
February 27, 2006**

**Room 412
State Capitol
Pierre, South Dakota**

The third meeting of the Legislature's State-Tribal Relations Committee was called to order by Chair Senator Stanford M. Adelstein at 9:10 a.m., February 27, 2006, in Room 412 of the State Capitol in Pierre, South Dakota.

The following members answered the roll call: Senators Stan Adelstein (Chair), Julie Bartling, Tom Dempster, and Theresa Two Bulls, and Representatives Cooper Garnos, and Tom Van Norman. Staff member Tom Magedanz was present.

(NOTE: For the sake of continuity, the following minutes are not necessarily in chronological order. All referenced documents are on file with the Master Minutes.)

Approval of Minutes

SENATOR TWO BULLS MOVED, SECONDED BY SENATOR DEMPSTER, THAT THE MINUTES OF THE MEETING OF THE NOVEMBER 18, 2005, MEETING BE APPROVED. The motion prevailed unanimously on a voice vote.

Uranium Mining and impacts in Western South Dakota

Ms. Charmaine White Face, Defenders of the Black Hills, Rapid City, discussed potential contamination of numerous areas in western South Dakota resulting from uranium exploration and mining operations beginning in the 1950s. She displayed photos of uranium mining areas in the Cave Hills area near Buffalo in Harding County. She noted that there are 89 abandoned open-pit uranium mines in that area and that the typical method of operation was to push the overburden off to reach the soil levels containing uranium and that those areas were not covered over after the cessation of mining. She stated that monitoring done by their group has shown elevated levels of radioactive material and that radioactivity can be carried in blowing dust and can also contaminate rivers and streams. She noted that several river basins in western South Dakota show contamination by radioactive materials, particularly the Grand River basin, and that all of these empty into the Missouri River. She stated that this situation threatens the health of large number of South Dakotans. She stated that there is evidence of elevated rates of cancer and other health problems in areas affected by uranium mining and exploration. She distributed four documents to the committee: "Recommendations to the State-Tribal Relations Committee on Abandoned Uranium Mines" (**Document #1**); "State OKs Oil Drilling," Rapid City Journal, June 15, 2005 (**Document #2**); "Shortsightedness in a Sacred Place," Rapid City Journal, June 11, 2005 (**Document #3**); and "Very Low Doses of Radiation Pose Risks, Panel Concludes," Rapid City Journal, June 30, 2005 (**Document #4**).

Representative Cooper Garnos asked about the difference between uranium mining exploration or prospecting and uranium mining operations and requested additional

description of the 89 sites in the Cave Hills and Slim Buttes areas. Ms. Whiteface replied that the 89 sites are abandoned open pit mines. She stated that for a "prospect" or exploration, test holes are drilled and these also could cause some contamination as material from uranium-containing levels of soil passes into other levels. She noted that there is also oil in the area and that there has been renewed interest in oil exploration as well as uranium development. She stated that the U.S. Forest Service in a recent environmental impact statement addressing oil drilling referred to possible radioactive contamination in the area. She said that radioactive contamination could affect the cattle industry and crops in the area and that this is not just a problem for Native Americans.

Chair Stan Adelstein requested that **Mr. Steve Pirner**, Secretary of the Department of Environment and Natural Resources, respond to the information provided by Ms. White Face. Mr. Pirner stated that he had received a letter from Chair Adelstein requesting information on this topic and the department is in the process of providing a written response. DENR will include information in its written response to address the testimony presented by Ms. White Face. As was testified, uranium mining took place in the northwestern and southwestern corners of South Dakota from the early 1950s through the early 1970s. Many of the old abandoned mines are on U.S. Forest Service land, and the department is working with the U.S. Forest Service on reclaiming some of these sites. He stated that we do not have specific studies on surface water, but we do have studies of drinking water. However, the state does not do the testing on tribal lands; the tribes have an agreement with the federal Environmental Protection Agency (EPA) which specifies that testing on tribal lands will be done by EPA. The state honors that agreement and is willing to coordinate with the tribes and EPA to conduct testing, but the past practice has been that EPA does the testing on tribal lands, which has been in line with the wishes of the tribes. Chair Adelstein asked whether any testing by DENR in the West River area shows elevated radioactivity. Mr. Pirner responded that a small number of drinking water samples may be slightly above the standards, but those will be evaluated in the department's written response. Representative Garnos asked whether radioactive dust is a concern, and Mr. Pirner replied that it is a concern in localized areas but that it does not travel very far. He said that this is the reason for the work that the U.S. Forest Service is currently doing. Representative Garnos also asked about procedures and costs involved with reclamation of uranium mines. Mr. Pirner stated that reclamation involves gathering up radioactive tailings, covering them and reseeding the area and that the U.S. Forest Service is currently involved with reclamation. He stated that money is a problem and that the Forest Service does not have sufficient funding to reclaim all of the affected areas.

Representative Tom Van Norman asked whether the state issues permits for these activities and generally what the state's role is with respect to uranium exploration and mining. He also asked what can be done at the state level regarding testing and monitoring of radioactive materials related to uranium mining and exploration. Mr. Pirner answered that the state is involved in permitting for these activities and that SB 62 was introduced and passed during the 2006 Legislative Session because of increased interest recently in new uranium exploration and mining activity because of increases in the price of uranium. SB 62 would increase the surety requirements for operators and also gives authority to the Board of Minerals and Environment to promulgate rules to regulate the construction, operation, monitoring, and closure of uranium and other mines using in situ leach processes. With respect to testing and monitoring, Mr. Pirner stated that DENR coordinates with EPA on testing and that all state testing results are added into the federal data system. He reiterated the fact that under current

arrangements with EPA, testing on tribal lands is done by EPA rather than the state. He also stated that because of recent renewed interest in uranium development, DENR is planning to increase its testing activity. Representative Van Norman expressed concern that SB 62 may open up the area for further uranium development, that not enough attention is being paid to health issues, and that the Department of Health needs to be involved in this process. He also said that the state needs to aggressively address this issue and that we need to look at increased testing in areas of previous uranium mining and exploration. He also feels that increased health-related scientific testing is needed and that the Center for Disease Control in Atlanta, Georgia should be involved.

Chair Adelstein asked whether any problems could arise before SB 62 takes effect on July 1. Mr. Pirner answered that various federal permitting requirements by the Nuclear Regulatory Commission and EPA would prevent potential operations from beginning before July 1. Chair Adelstein also asked whether new oil exploration and drilling activity could cause radioactivity problems. Mr. Pirner stated that radioactivity problems related to oil activity is not likely because the potential oil areas are not in the same location as uranium areas. Also, oil drilling requires that drill holes be cased and cemented to protect fresh water aquifers. Chair Adelstein stated that it is necessary to speed up the testing and monitoring process and he asked whether the state and the tribes could work together so that health questions could be answered. Mr. Pirner stated that typically EPA and the tribes do the testing in tribal areas. If the state were requested by the tribes to do testing, the state could do a limited amount of testing, but funding concerns for the state would become an issue. Representative Garnos asked about the cost of testing and how testing varies around the state. Mr. Pirner stated that testing around the state would be done in the normal manner but that parameters for radioactivity could be added to the testing process. Radioactive testing costs approximately \$325 per sample. Representative Van Norman stated that the five recommendations made by Ms. White Face in Document #1 should be implemented.

Chair Adelstein suggested, and the committee concurred, that the committee send a letter to Governor Rounds requesting that the appropriate state agencies coordinate among themselves and with federal agencies and tribes to expedite testing and monitoring for radioactive materials associated with uranium exploration and mining. The letter will also request that additional funding sources be identified for these purposes and that the Center for Disease Control in Atlanta, Georgia, be apprised of the situation.

Public Testimony

Mr. Harold One Feather, McLaughlin, Standing Rock Sioux Tribe, said that state and federal agencies are not working together. The U.S. Forest Service has noted that something is wrong with groundwater in some areas, but the state has not followed up on this. Oil development and uranium development will cause problems and that oil well casings sometimes break. He referred to cancer deaths and other health problems in the area.

Ms. Joanne Tall, Rapid City, referred to a women's study on water contamination on the Pine Ridge Reservation from radiation in the southern Black Hills and noted that there is a high rate of cancer and stillbirths in the area. She said that her daughter had cancer and thyroid problems, and she wants to people in the area to be informed of health risks.

Mr. Garvard Good Plume, Jr., Pine Ridge, discussed health problems and cancer rates in his area and believes that they are related to radiation exposure. He stated that he attended Brainard Boarding school near Hot Springs for many years and later discovered that an abandoned uranium mine was located two miles away from the school. Many of his classmates have had health problems and have been unable to have children. He also observed high radiation readings in parts of the school and feels that they are related to their health problems.

Ms. Marge Two Hawk, Pierre, updated the committee on her struggle to gain custody of her granddaughter. She has been unsuccessful so far with the Department of Social Services and has decided to take legal action.

Ms. Marletta Pacheco, Rapid City, who is a member of the Prison Support Group associated with the Department of Corrections, first commented on child protection issues and then discussed corrections issues. She thanked the committee for giving people a place to be heard on these issues and discussed hearing held recently by the Equal Justice Commission, which was established by the South Dakota Supreme Court. She encouraged the committee to disseminate the report of the commission. She discussed concerns about the percentage of Native Americans who are incarcerated and stated that many Indian prisoners feel they do not have a chance to speak for themselves. She distributed a list of prisoner concerns compiled by the Prisoner Support Group (**Document #5**).

Ms. Mattie High Pipe, Parmalee, Rosebud Sioux Tribe, serves as a prison liaison and has taught Lakota language classes in prison for the Department of Corrections. She expressed concern about a sweat lodge ceremony at the prison that was disrupted by a guard. She said that some, but not all, DOC employees receive cultural sensitivity training and that this training needs to go to all staff. She also noted the high percentage of Native Americans who are incarcerated, and she described encounters with police in which Native Americans are singled out. She wants to keep fighting for Native American rights and that is the reason she came before the committee.

REPRESENTATIVE VAN NORMAN MOVED, SECONDED BY SENATOR BARTLING, THAT THE COMMITTEE PREPARE A RESOLUTION OR LETTER TO THE GOVERNOR'S OFFICE AND TO THE TRIBAL GOVERNMENT RELATIONS OFFICE URGING FURTHER TRAINING IN CULTURAL SENSITIVITY FOR ALL LAW ENFORCEMENT PERSONNEL AND OTHER APPLICABLE STATE AND LOCAL GOVERNMENT PERSONNEL INVOLVED IN CORRECTIONS, CRIMINAL JUSTICE, AND SOCIAL SERVICES. IN ADDITION, THE COMMITTEE SUPPORTS THE FINDINGS OF THE EQUAL JUSTICE COMMISSION, INCLUDING THEIR RECOMMENDATION THAT STATISTICAL DATA BE COMPILED ON RACE FOR ARRESTS AND TRAFFIC STOPS. The motion prevailed unanimously on a voice vote.

Mr. Clifford White Eyes, Sr., St. Francis, Rosebud Sioux Tribe, discussed the issue of uranium and radioactive materials. He said that he lost his wife to cancer and that this is a problem that targets the entire population, not just Native Americans. He provided the committee with a copy of an article entitled "Native North America: The Political Economy of Radioactive Colonialism" (**Document #7**).

Ms. Janice Bad Horse Larson, Lower Brule, also discussed high cancer rates that may be due to radioactive materials and noted that deformed fish have been caught, which could be related to radioactivity as well.

Ms. Brenda Two Shields, Cheyenne River Sioux Tribe, discussed unemployment problems on the reservation and said that an employment office is needed in Eagle Butte in addition to the current office which is located in Mobridge but is inaccessible to many people on the reservation.

Senator Theresa Two Bulls provided the committee with a document entitled "Economic Feasibility of an East Side Gaming Facility for the Oglala Sioux Tribe" (**Document #6**).

Adjournment

MOTION BY REPRESENTATIVE GARNOS, SECONDED BY SENATOR BARTLING THAT THE MEETING BE ADJOURNED. MOTION CARRIED.

The meeting was adjourned at 12:15 pm.

