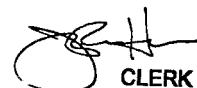


KES

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH DAKOTA  
WESTERN DIVISION

**FILED**

AUG 09 2002

  
CLERK

UNITED STATES OF AMERICA,

CIV 02- 5071

Plaintiff,

vs.

ALEXANDER "ALEX" WHITE PLUME,  
PERCY WHITE PLUME, and their  
agents, servants, assigns, attorneys and  
others acting in concert with them,

AFFIDAVIT  
IN SUPPORT OF COMPLAINT  
AND MOTION FOR  
TEMPORARY RESTRAINING ORDER  
AND MOTION FOR  
PRELIMINARY INJUNCTION

Defendants.

State of South Dakota       )  
  ) ss.  
County of Pennington       )

I, J.C. Salley, being first duly sworn, depose and state as follows:

1. I am a Special Agent of the United States Department of Justice, Drug Enforcement Administration (DEA) and I have been a federal narcotics agent for over fifteen (15) years. Prior to my appointment as a DEA Special Agent, I served as a police officer in the City of Cheyenne, Wyoming, for two and one-half ( 2 ½) years. During my tenure as a law enforcement officer, I have worked on numerous major drug investigations, and I have worked in a undercover capacity purchasing controlled substances. I have been the affiant on numerous federal and state search warrant applications over the last fifteen (15) years.

2. I actively participated in the activities described below between May 2000 and the present. As part of this investigation, I interviewed several individuals, and familiarized myself with the

reports of interviews conducted by other law enforcement officers. The following information does not constitute the totality of the information known about this case by myself and other law enforcement personnel. All information referred to below concerns events that I personally witnessed, records and/or documents that I personally reviewed, or information that I learned directly from the officers involved, either orally or through review of their written reports.

3. On May 11, 1998, the Oglala Sioux Tribal Council voted to meet with the United States Attorney for the District of South Dakota in regard to a proposed tribal ordinance to grow "hemp." On May 18, 1998, the Oglala Sioux Tribal Council sent a letter to the United States Attorney for the District of South Dakota notifying the United States Attorney of the proposed ordinance. (Ex. 1).

4. On June 23, 1998, following consultation with DEA's Chief Counsel, then United States Attorney Karen E. Schreier advised the President of the Oglala Sioux Tribe by letter of the necessity to obtain DEA registration to grow "hemp." The United States Attorney informed the Tribal President in the letter that "[a]ny individual cultivating marihuana or hemp in South Dakota without a valid DEA registration will be subject to criminal prosecution pursuant to 21 U.S.C. § 841(a)." (Ex. 2).

5. On August 7, 1998, the Oglala Sioux Tribal Council passed an ordinance permitting land use associations to grow "industrial hemp," described as Cannabis Sativa with THC content of 1% or less. (Ex. 3).

6. In May 2000, Alex WHITE PLUME and his family planted marijuana on tribal lands near the WHITE PLUME family residences north of Manderson, South Dakota, on the Pine Ridge Indian Reservation.

7. BIA Criminal Investigator Colin Clark informed me that on or about July 18, 2000, he acquired approximately 107 grams of marijuana from Alex WHITE PLUME. This marijuana was

taken from plants in WHITE PLUME'S outdoor grow. This sample was sent on July 20, 2000, to the University of Mississippi Drugs of Abuse Research Program by BIA C/I Clark and FBI Special Agent Charles Cresalia, for analysis. (Exs. 4 & 5). During the acquisition of this evidence, BIA C/I Clark took several photographs of WHITE PLUME in his marijuana grow. (Exs. 6 & 7).

8. As he acquired the marijuana sample from Alex WHITE PLUME, BIA C/I Clark discussed the grow with Alex WHITE PLUME. WHITE PLUME gave BIA C/I Clark a tour of the field where the marijuana was growing and acknowledged that the grow and the field were his.

9. The field identified in the preceding paragraphs was located on land owned by WHITE PLUME and his family. The land is legally described as: parcel 6647, located within Range 44 West, Township 38 North, Section 12. The Oglala Sioux Tribe Realty Office lists the owners of the property as: Alex White Plume, Alexander (Ghost) Bad Bear, Alex Bad Bear, Barbara Bad Bear, Leon A. Ladeaux and Steven L. LaDeaux.

10. On July 24, 2000, Sandy Sauser, Secretary of the Slim Butte Land Use Association, wrote a memorandum to the Oglala Tribe Land Committee describing the state of the crops and their location. (Ex. 8).

11. On August 21, 2000, federal search warrants were obtained for two separate marijuana fields on the Pine Ridge Indian Reservation. One, identified as the "church grow," was located a few miles west of the community of Pine Ridge, and the other was located on WHITE PLUME'S property as previously described above.

12. On August 24, 2000, federal officers executed both search warrants. Pursuant to the execution of the search warrants, approximately 2,435 marijuana plants were seized from the marijuana grow west of Pine Ridge, and at least 3,720 marijuana plants were seized from the marijuana grow on WHITE PLUME'S land. Samples of marijuana from each grow were submitted

to the DEA North Central Laboratory. A forensic chemist determined that the samples were marijuana. (Exs. 9 & 10).

13. On August 24, 2000, during the execution of the search warrant and the eradication of the marijuana on WHITE PLUME'S land, both Alex WHITE PLUME and his younger brother, Percy WHITE PLUME, arrived at the location. Deputy United States Marshal Paul Thielen initially stopped Alex WHITE PLUME. WHITE PLUME then spoke with FBI Supervisory Special Agent (SSRA) Mark Vukelich, FBI (ASAC) Ray Morrow and DEA (ASAC) Robert Hartman. Percy WHITE PLUME ran a law enforcement roadblock to get to the marijuana grow, but he was stopped and detained by agents before he actually got into the field. Both Alex WHITE PLUME and Percy WHITE PLUME were informed of the existence of the search warrant. Officers later served a copy of the search warrant on Alex WHITE PLUME at his residence.

14. On October 5, 2000, law enforcement officers destroyed the remaining "bulk" marijuana in accordance with a court Order issued by United States District Judge Richard H. Battey. (Ex. 11).

15. I have been informed by employees in the Des Moines, Iowa, DEA office that, on February 16, 2001, they were contacted by an attorney named Charlie LAMAN, who stated he represented several Indian tribes, including the Oglala Sioux Tribe. As part of his legal representation, Mr. LAMAN inquired about obtaining DEA registrations to grow industrial hemp. On February 20, 2001, an application was sent to: Charlie LAMAN, P.O. Box 2272, Topeka, KS 66601. On August 8, 2002, I spoke to Julie Antilla, a Diversion Investigator with the DEA Diversion Group in the Des Moines, Iowa, DEA office. According to her review of the records, that application has not been returned to DEA.

16. I have been informed that, in April 2001, Oglala Sioux Tribe (OST) Police Chief Marvin Bad Wound contacted FBI SSRA Mark Vukelich. Chief Bad Wound related that he had attended a Tribal

Council meeting in Manderson, South Dakota. During this Tribal Council meeting, Alex WHITE PLUME told the Tribal Council that he would grow hemp again that year and he requested protection for his hemp from the tribal police. WHITE PLUME further stated that if the tribal officers would not protect his hemp from the federal government, he and his sons would protect it "the Indian way."

17. On May 18, 2001, your affiant and FBI SSRA Vukelich attempted to locate Alex WHITE PLUME to talk with him about the 2001 marijuana grow he and his family had planted. Your affiant and FBI SSRA Vukelich did not locate Alex WHITE PLUME, but did meet with Percy WHITE PLUME. Percy WHITE PLUME stated that Alex WHITE PLUME was not growing marijuana in 2001 because Alex WHITE PLUME stood the possibility of being arrested if he grew again. Percy WHITE PLUME further stated he was the one growing marijuana in 2001 instead of Alex WHITE PLUME. Percy WHITE PLUME inquired about the requirements for obtaining a permit to grow marijuana/hemp. Your affiant told Percy WHITE PLUME that there were extensive security requirements and an application/registration process with DEA to become a schedule I manufacturer. Your affiant told Percy WHITE PLUME that the appropriate forms would be sent to him. Your affiant and FBI SSRA Vukelich advised Percy WHITE PLUME that growing marijuana under the guise of industrial hemp was illegal and if he grew marijuana he could be prosecuted.

18. On May 29, 2001, pursuant to the conversation on May 18, 2001, between your affiant, FBI SSRA Mark Vukelich, and Percy WHITE PLUME, a DEA-225, Application for Registration, was sent to Percy WHITE PLUME at P.O. Box 411, Manderson, South Dakota. On August 8, 2002, your affiant spoke to Julie Antilla, a Diversion Investigator with the DEA Diversion Group in the Des Moines, Iowa, DEA office. According to her review of the records, that application has not been returned to DEA.

19. On July 27, 2001, Alex WHITE PLUME, Percy WHITE PLUME, and their attorney, Bruce Ellison, met with Assistant United States Attorney Mark A. Vargo, your affiant and DEA Special Agent Paul Mancini. During this meeting, Alex WHITE PLUME signed a consent form authorizing DEA to search, seize and destroy any marijuana on WHITE PLUME'S property. (Ex. 12). As part of this agreement, the United States granted Alex WHITE PLUME limited use immunity on the condition that Alex WHITE PLUME not plant or cultivate marijuana in the future without the authority of an Order issued by the United States District Court. (Ex. 13).

20. On July 30, 2001, federal law enforcement agents eradicated approximately 3,400 cultivated marijuana plants from the WHITE PLUME grow. (Exs. 14, 15, 16, & 17). This grow was adjacent to Percy WHITE PLUME'S residence. The residence is located northwest of Manderson, South Dakota, and is legally described as: parcel 6645, located within Range 44 West, Township 38 North, Sections 11 and 12. The Oglala Sioux Tribe Realty Office lists the owners of the property as: Percy White Plume, Jr., Alta Lou White Plume, Alexander White Plume (deceased), Wyoma Ureta Smith, Roger Bissonette, Alexander White Plume, Carlene Crazy Thunder, Alex White Plume, Rita Sue White Plume, Sonja Ramona White Plume, Sonya Ramona White Plume, Mildred E. Weasel Alkire and Carla Denise Crazy Thunder.

21. Samples from the 2001 marijuana grow described in the preceding paragraph were forwarded to the DEA Laboratory in Chicago, Illinois, where they were later tested and found to be marijuana. (Exs. 18 & 19).

22. Also on July 30, 2001, federal agents eradicated an additional 2,600 volunteer marijuana plants at the site of the previous 2000 Alex WHITE PLUME marijuana grow.

23. On July 30, 2001, Alex WHITE PLUME had a conversation with FBI Special Agent William Grode in which WHITE PLUME made the following statements: that he, Alex WHITE PLUME,

planted the hemp field to support his family and that the 1868 Fort Laramie Treaty allowed him to do so. WHITE PLUME further stated it would have cost him \$875.00 to obtain a federal permit to grow marijuana and he did not have that kind of money.

24. On July 30, 2001, FBI S/A Grode observed Alex WHITE PLUME being interviewed on Rapid City, South Dakota, KOTA-TV News, concerning the federal government's seizure of his marijuana crop. WHITE PLUME in this news story stated that he could plant, and that he would plant, again the following year. WHITE PLUME stated that it was his property that was destroyed, and he intended to sue the federal government for \$1,000.00 for each plant destroyed.

25. On April 15, 2002, the WHITE PLUME family planted marijuana near or in the same area as the 2000 grow. The WHITE PLUME family held a ceremony and invited others to attend and assist in the planting. This event was openly reported in the Rapid City Journal and by at least one local television station. (Ex. 20).

26. On July 8, 2002, your affiant and FBI Special Agent Dan Cooper traveled to the Pine Ridge Indian Reservation and went to the same location where Alex WHITE PLUME had planted marijuana in 2000. Upon arriving at the field, your affiant and S/A Cooper observed a "sacred staff" in the field along with several small plots of marijuana. Two of the marijuana plots had garden hoses running to them. These garden hoses were part of a water system that utilized a gas powered water pump. There was a hose running from the nearby creek to the water pump. A second hose ran from the water pump to white PVC pipe, which was finally connected to the garden hoses that ran to the marijuana plots. (Exs. 21, 22 & 23).

27. On July 8, 2002, your affiant collected plant samples from the marijuana grow described in the preceding paragraph. Your affiant later sent those samples to the DEA Laboratory in Chicago, Illinois. Your affiant has been informed telephonically by DEA Chemist Odiest Washington that

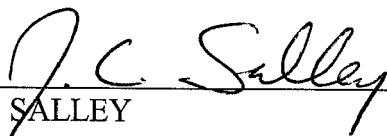
he analyzed the samples and found them to be marijuana.

28. On August 3, 2002, your affiant observed an article in the Rapid City Journal, which quoted Alex WHITE PLUME as saying that the 2002 crop had been harvested the previous Monday (July 29, 2002). (Ex. 24). The article also quoted WHITE PLUME as claiming that he had a buyer for the crop, Madison Hemp & Flax Company of Lexington, Kentucky, whom he expected would come to South Dakota on August 14, 2002, to pick up the crop.

29. On August 2, 2002, FBI S/A Dan Cooper observed the field described in paragraph 26. S/A Cooper informs your affiant that, based upon his observations, it did not appear that the crop had been harvested.

Further your affiant sayeth not.

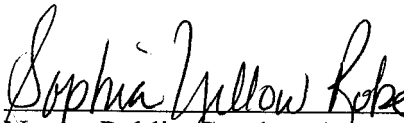
Dated this 9<sup>th</sup> day of August, 2002.

  
\_\_\_\_\_  
J.C. SALLEY  
Special Agent  
Drug Enforcement Administration

Subscribed and sworn to before me this 9<sup>th</sup> day of August, 2002.

My Commission Expires:

8/17/2002

  
\_\_\_\_\_  
Notary Public, South Dakota



MAY 21 '98 08:30AM RAPID CITY USAU

# Oglala Sioux Tribe

## RECEIVED

Box H  
Pine Ridge, South Dakota 57770  
(605) 867-5821 Direct (605) 867-1004  
Fax: (605) 867-1004

MAY 21 1998  
UNITED STATES ATTORNEY  
Rapid City, SD



Office of the Secretary

THERESA B. TWO BULLS

May 18, 1998

Ms. Karen Schrier  
U.S. Attorney  
P.O. Box 2893  
Rapid City, SD 57701

RE: Tribal Council Action

Dear Ms. Schrier:

Please be advised that, during their Regular Session held on the 11th day of May, 1998, the Oglala Sioux Tribal Council took the following action:

MOTION NO. 98-076 - MOTION MADE BY MELVIN CUMMINGS, SECONDED BY WAYNE TAPIO TO HAVE THE SLIM BUTTES LAND USE ASSOCIATION, OST LAND COMMITTEE CHAIRMAN, OST JUDICIARY COMMITTEE CHAIRPERSON AND MARVIN AMIOTTE, TRIBAL ATTORNEY, TO MEET WITH THE U.S. ATTORNEY ON PROPOSED ORDINANCE; IF SAID MEETING CANNOT BE HELD ON THE RESERVATION, SAID INDIVIDUALS WILL GO TO RAPID CITY, SD TO MEET WITH THE U.S. ATTORNEY. MOTION CARRIED WITH: 10 YES; 2 NO; 0 ABSTAIN; 3 NOT VOTING.

If you have any questions, please contact this office.

Sincerely,

THERESA B. TWO BULLS  
OST Secretary

EXHIBIT

## COMMERCIAL CULTIVATION OF INDUSTRIAL HEMP

### TRIBAL POLICY PAPER

A policy proposal and draft regulations have been developed by the Slim Butte Land Use Association for review and consideration by the Oglala Sioux Tribal Council Judiciary Committee to permit an assessment of potential for the controlled commercial cultivation of industrial hemp within the boundaries of the Oglala Lakota Nation on the Pine Ridge Indian Reservation under the laws of Oglala Lakota Sioux Tribe.

This initiative comes from the Slim Butte Land Use Association in recognition of the renewed and growing nation and international interest in the commercial cultivation of industrial hemp as an valuable and ecologically sustainable alternative crop.

Presently, there are several nations and states, including Navaho, Canada, the United Kingdom, Germany, and Australia, as well as the states of Washington, North Dakota, Minnesota, Wisconsin, Vermont, Virginia, Kentucky, Iowa, Kansas, Colorado and Hawaii, in the United States, which are currently exploring or actively engaged in developing the potential of such production. The development of this Tribal policy statement and resulting regulatory framework, builds upon the research, analysis and conceptual framework produced by several of these governments.

The Oglala Sioux Tribe, joins with these various national and state governments, in recognizing that significant environmental and economic benefits may be derived from the renewed development of natural industrial hemp production. Cultivation of the hemp plant has been demonstrated to enhance, rather than deplete, the soil and can be grown without expensive agricultural inputs which can also threaten reservation ground water. The fiber produced from industrial hemp is extremely versatile and can be use as a basic natural material for ecologically compatible, reservation-based cottage industries in the manufacture of numerous value-added products.

The Slim Butte proposal was first initiated at a meeting of the Great Sioux Nation convened at Fort Laramie, Wyoming, in September, 1996, with representatives of the federal departments of Justice, State and Interior. After several follow-up meetings of the Slim Butte Land Use Association, information was presented to the Oglala Sioux Tribe administration and members of the Tribal Council in November, 1997, by Mr. Lloyd Casey, former state senator of Colorado who was instrumental in that state's hemp initiative. This information highlighted the ecological, economic and legal implications involved in the production of fibrous industrial hemp. In January, 1998, the Slim Butte Land Use Association brought a proposal for consideration by the Oglala Sioux Tribal Council and its relevant committees.

The Oglala Sioux Tribe recognizes that there are those that may not support the commercial cultivation of industrial hemp because of a perceived association with marijuana or out of a concern that such cultivation could contribute to an increase in illicit activities if rigorous enforcement mechanisms are not built into the regulatory framework. However, the Oglala Sioux Tribal government has a duty to assess the ecological and economic potential of this important

agricultural crop resource. Furthermore, under Title 9, Section 106 (e) of the Oglala Sioux Tribe Penal Code -- Controlled Drugs and Substances, "fiber produced from mature stalks of (the genus cannabis) plant, or oil or cakes made from the seeds of such plants" are presently excluded from the criminal definition of "marijuana". The proposal of the Slim Butte Land Use Association simply asks for greater clarity under the tribal law so as to allow for the regulated production of the non-drug variety of the plant for legitimate commercial purposes already recognized under tribal law.

The intent of the Oglala Sioux Tribe in developing this statement of policy and regulations is to provide a framework to allow the commercial production and processing of industrial hemp and hemp products on the Pine Ridge Indian Reservation without creating undue risk to the Lakota Oyate or neighboring populations, in conformity with the requirements of tribal and federal law, and various international conventions. In developing this policy, the Oglala Sioux Tribe recognizes the three options, which have been identified recently by the Canadian government. In a 1997 report entitled, **COMMERCIAL CULTIVATION OF INDUSTRIAL HEMP** the Therapeutic Products Directorate, of Health Canada, outlined the following three options:

- 1) Continue with the status quo of a total prohibition under the Canadian Controlled Drugs and Substances Act, (which is similar to Title 9, Section 106 - Controlled Drugs and Substances of the Oglala Sioux Tribe Penal Code;
- 2) Permit limited authorization for the commercial cultivation of industrial hemp and;
- 3) Allow unlimited authorization.

The Oglala Sioux Tribal Council has considered each of these options. The first is the situation which presently exists and it denies the potential benefits which could result from a locally controlled commercial production of industrial hemp on the Pine Ridge Indian Reservation. The second allows for the legitimate exercise of tribal regulatory authority for the commercial production of the "fiber produced from mature stalks of such plant," and other related products, such as "oil or cakes made from the seed of such plants" already exempted under tribal law at Title 9, Section 106.00(e). The third would at this time interfere with legitimate drug control and law enforcement interests expressly outlined under tribal law.

The Oglala Sioux Tribal Council favors the approval of the second recommendation which would allow for the controlled exploration of the potential ecological and economic benefits of commercial fibrous hemp production while protecting against unlawful activities associated with the illicit use of controlled drugs and substances.

Therefore, an assessment of the commercial cultivation of industrial hemp shall be permitted and undertaken on the Pine Ridge Indian Reservation under a limited authorization pursuant to the proposed amendments to Title 9, Section 106 of the Oglala Sioux Tribe Penal Code - Controlled Drugs and Substances, through the creation of appropriate industrial hemp regulations. Upon the report and recommendations of the special commissioner and the Slim Butte Land Use Association, a licensing and permit schema shall be established to control all

activities under the industrial hemp regulations such that importers, exporters, distributors, growers and processors will be required to apply for and maintain a license or permit to carry out any of the activities authorized under the Regulations.

Any recommended regulatory framework shall provide for the articulation of appropriate criteria to assess the suitability of an applicant to conduct a licensed activity. This level of regulatory control would be necessary to facilitate compliance and enforcement activities, in order to ensure that there is no diversion of seeds, plants or products to the illicit drug market. Further, record keeping and auditing provisions shall be established which will facilitate the identification of illegal activities. To provide accurate records of quantities of industrial hemp moving into and out of the jurisdiction as well as to identify legitimate shipments for international customs, a permit will be required in addition to a license.

Submitted for adoption by the Slim Butte Land Use Association.



U.S. Department of Justice

*Hemp*

*Karen E. Schreier*  
United States Attorney  
District of South Dakota

201 Federal Building  
515 Ninth Street  
Rapid City, South Dakota 57701

(605) 342-7822

FAX: (605) 342-1108

June 23, 1998

The Honorable John Yellow Bird Steele  
President  
Oglala Sioux Tribe  
Pine Ridge, SD 57770

Re: Cultivation of Hemp on Native  
American Tribal Land

Dear President Steele:

Pursuant to our recent telephone conversation, I requested the official legal position of the Drug Enforcement Agency regarding whether the cultivation of hemp on Native American tribal lands is a violation of federal law. Enclosed is a copy of their opinion. The opinion reaches the conclusion that the manufacture of hemp constitutes the manufacture of marihuana, which can only be done legally if the individuals who wish to cultivate marihuana for industrial use obtain a DEA Certificate of Registration. See 21 U.S.C. § 822; 21 U.S.C. § 823. Any individual cultivating marihuana or hemp in South Dakota without a valid DEA registration will be subject to criminal prosecution pursuant to 21 U.S.C. § 841(a).

Please call me if you have any additional inquiries.

Sincerely,

*Karen E. Schreier*

KAREN E. SCHREIER  
United States Attorney

KES/jh  
Enclosure

EXHIBIT



# United States Department of the Interior

FILE

## BUREAU OF INDIAN AFFAIRS

Aberdeen Area Office

115 Fourth Avenue S.E.

Aberdeen, South Dakota 57401

IN REPLY REFER TO:

Tribal Government Services  
MC-304

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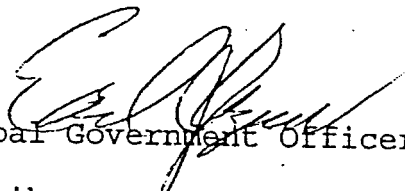
### Memorandum

To: Superintendent, Pine Ridge Agency  
From: Tribal Government Services  
Subject: Tribal Ordinance

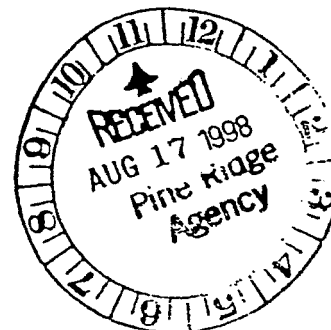
We have received Tribal Ordinance No. 98-27 enacted by the Oglala Sioux Tribal Council.

The ordinance has been referred to Tribal Government Services for information.

Comments:

  
Tribal Government Officer

cc: President, Oglala Sioux Tribe  
Tribal Government Services  
File



EXHIBIT

Ord. 98-27

UNITED STATES GOVERNMENT

# memorandum

DATE: AUG - 7 1998

REPLY TO: Superintendent, Pine Ridge Agency  
ATTN OF:

SUBJECT: Transmittal of Oglala Sioux Tribal Ordinances

*Ack separately  
RIP to 165  
Gul*

TO: Area Director, Aberdeen Area Office  
Attention: Tribal Government Services

Attached for your information are the following Ordinances passed by the Oglala Sioux Tribe:

1. Ordinance No. 98-27, "Ordinance of the Oglala Sioux Tribal Council amending the Oglala Sioux Tribal Penal Code Related to Industrial Hemp."
2. Ordinance No. 98-28, "Ordinance of the Oglala Sioux Tribal Council Amending Ordinance No. 94-01, The Gaming Code of the Oglala Sioux Tribe, Section 4, Games Permitted."
3. Ordinance No. 98-19, "Ordinance of the Oglala Sioux Tribal Council Amending Oglala Sioux Tribal Council Ordinance No. 95-10."

If you have any questions regarding this transmittal, please call my office at 867-5125.

*Robert D. Enghy*

Attachments:

cc: President, Oglala Sioux Tribe

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ABERDEEN AREA OFFICE TRIBAL GOVERNMENT SERVICES

ORDINANCE OF THE OGLALA SIOUX TRIBAL COUNCIL  
OF THE OGLALA SIOUX TRIBE  
(An Unincorporated Tribe)

ORDINANCE OF THE OGLALA SIOUX TRIBAL COUNCIL AMENDING THE OGLALA SIOUX TRIBAL PENAL CODE RELATED TO INDUSTRIAL HEMP.

WHEREAS, the Oglala Sioux Tribe recognizes that industrial hemp is a safe and profitable commodity in the international marketplace and is grown in more than thirty countries including Canada, France, England, Russia, China, Germany and Australia, and

WHEREAS, treaties signed between the Oglala Sioux Tribe and the United States government acknowledge that the tribe retains the right to grow food and fiber crops from the soil, and

WHEREAS, the Oglala Sioux Tribe recognizes that industrial hemp was a viable and profitable crop grown in the Pine Ridge region when the treaties were entered between the United States and the Oglala Sioux Tribe, and

WHEREAS, the Oglala Sioux Tribe seeks to develop sustainable, land-based, economic opportunities for tribal members, and

WHEREAS, the Oglala Sioux Tribe recognizes that there is a consistent, predictable, genetically based difference between the varieties of *Cannabis sativa* that produce marijuana and those that produce industrial hemp and that the difference is based on the amount of tetrahydrocannabinol present in the plant, and

WHEREAS, law enforcement agents and farmers can learn to readily distinguish between the different varieties of *Cannabis sativa*, and

WHEREAS, the Oglala Sioux Tribe seeks to maintain its current policy of prohibiting the use and proliferation of marijuana on the reservation, and

WHEREAS, international treaties and trade agreements including the 1961 Single Convention on Narcotic Drugs, the North American Free Trade Agreement (NAFTA) and the General Agreement on Tariffs and Trade (GATT) specifically classify industrial hemp as a commodity that is separate and distinct from any narcotic, and

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WHEREAS, the law enforcement policies of the United States Government are inconsistent, severely overburden industrial hemp agriculture, and do not adequately carry out the original intent of Congress regarding industrial hemp and marijuana, now

THEREFORE BE IT ORDAINED, that the Oglala Sioux Tribal Council does hereby expressly reserve and retain jurisdiction to enact legislation relating to industrial hemp agriculture and amends the Oglala Sioux Tribe Penal Code to clarify its policy allowing agricultural and economic development while retaining its existing policy against marijuana, and

BE IT FURTHER ORDAINED, that any members of the Oglala Sioux Tribe who wish to harvest or cultivate industrial hemp must first organize, or join an existing, a land use association. Each land use association making use of industrial hemp will then appoint, and arrange for the compensation of, a liaison who will file a quarterly report to the Land Committee of the Oglala Sioux Tribal Council, delineating with specificity the industrial hemp acreage to be cultivated and/or harvested, the end products to be manufactured and the progress since the previous report. The liaison will serve as the interface between the land use association, the Oglala Sioux Tribal Council and any interested law enforcement agencies, and

BE IT FURTHER ORDAINED, that the Oglala Sioux Tribal Penal Code, Title 9, Section 106 - Marijuana and Section 106.00 - Controlled Drugs and Substances are amended as follows:

a) TITLE 9, SECTION 106 - MARIJUANA is amended to read:

Any Indian who shall plant, grow, cultivate, harvest or gather, sell, barter, or give away or have in possession any Marijuana shall be deemed guilty of an offense and upon conviction thereof, shall be sentenced to labor for a period not to exceed six (6) months, or to a fine not to exceed three hundred and sixty dollars (\$360.00), or to both such fine and imprisonment, with costs.

b) The definition of "Marijuana" in TITLE 9, SECTION 106.00 (e) is amended to read:

"Marijuana"--All parts of the plant of the genus *Cannabis* whether growing or not, the seeds thereof, resin extracted from any part of such plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin THAT CONTAINS ONE PERCENT OR MORE CONCENTRATION OF TETRAHYDROCANNABINOL BY WEIGHT. MARIJUANA DOES NOT INCLUDE INDUSTRIAL HEMP AS DEFINED IN THIS SECTION.

ORDINANCE NO. 98-27

Page Three

c) The following definition of "Industrial Hemp" shall be added to TITLE 9, SECTION 106.00 as appropriate:

"Industrial Hemp"-- All parts and varieties of the plant *Cannabis sativa*, both indigenous and imported, that are, or have historically been, cultivated and harvested for fiber and seed purposes and contain a tetrahydrocannabinol concentration of one percent or less by weight.

and,

BE IT FURTHER ORDAINED, that all ordinances, resolutions, policy letters, memoranda of understanding or agreement and any other official documents created by, or entered into by, the Oglala Sioux Tribal Council that relate to marijuana are hereby amended to encompass the distinction now created in TITLE 9, SECTION 106.00.

C-E-R-T-I-F-I-C-A-T-I-O-N

I, as undersigned Recording Secretary of the Oglala Sioux Tribal Council, hereby certify that this Ordinance was adopted by a vote of: 8 for; 4 against; 0 abstain; 0 not voting, during a REGULAR SESSION held on the 28th day of JULY, 1998.

*Stacy L. Two Lance*  
STACY L. TWO LANCE  
Recording Secretary  
Oglala Sioux Tribe

A-T-T-E-S-T

*R. Milo Yellow Hair*  
R. MILO YELLOW HAIR  
Vice-President  
Oglala Sioux Tribe

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ABERDEEN AREA OFFICE TRIBAL GOVERNMENT SERVICES



08/02/00

16:32

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RAPID CITY DEA

SIOUX FALLS DEA

003

FD-302 (Rev. 10-6-95)

- 1 -

## FEDERAL BUREAU OF INVESTIGATION

Date of transcription

07/26/2000

Colin Clark, Bureau of Indian Affairs (BIA) Criminal Investigator (CI), appeared at the Federal Bureau of Investigation (FBI) office in Rapid City on Thursday, July 20, 2000. SA Cresalia met with Agent Clark and Agent Clark provided SA Cresalia with part of a marijuana plant seized as evidence by the BIA from Alex White Plume's property on the Pine Ridge Indian Reservation. Agent Clark requested the FBI submit the marijuana plant material to the Drug Enforcement Administration (DEA) Laboratory to have it analyzed for its THC concentration. SA Cresalia heat sealed the plant material in a clear plastic baggie and placed an FBI label over it. Agent Clark witnessed the evidence being sealed and also the weight of the evidence which was determined to be 107.5 grams. Agent Clark and SA Cresalia met with Assistant United States Attorney (AUSA) Vargo at the United States Attorney's Office. AUSA Vargo requested the marijuana plant evidence be submitted to the DEA Laboratory to be tested for its THC concentration. AUSA Vargo requested this be done to determine if White Plume has violated Oglala Lakota Nation Tribal Laws which provides that marijuana can be grown if its THC concentration is less than one percent.

Investigation on 07/20/2000 at Rapid City, South Dakota

File # 198E-MP-43662-GR43

Date dictated 07/20/2000

EXHIBIT

08/02/00

18:31

01 60

43 3882

RAPID CITY DEA

SIOUX FALLS DEA

0002

NATIONAL INSTITUTE OF DRUG ABUSE  
UNIVERSITY OF MISSISSIPPI  
CANNABIS POTENCY MONITORING PROJECT

mailed  
7-21-00  
FED EX #291-4357-917

## Mail Samples to:

Dr. Mahmoud A. ElSohly  
The University of Mississippi  
Drugs of Abuse Research Program  
135 Coy Waller Complex Bldg.  
University, MS 38677

## Mail Analysis Results to:

FBI ATTN: SA Cresalia  
909 St. Joseph Street  
Suite #400  
Rapid City, S.D. 57701  
Phone: (605) 341-9632

The FBI/South Dakota in accordance with the terms of the Domestic Cannabis Eradication and Suppression Program grant agreement with the Drug Enforcement Administration, has acquired the following sample of domestically grown cannabis which is being forwarded for analysis.

*The University of Mississippi requests that samples be dried. The sample should weigh approximately 25 grams (1 handful) and be packaged in a breathable bag, i.e. paper bag or plastic bag with holes for air circulation. A form must be completed for each sample submitted. Sample submissions can be sent in a batch. Forward sample with this form attached via registered, return receipt requested mail. Questions regarding sample handling or analysis results should be directed to The University of Mississippi at (661) 232-5928.*

Date of Seizure

Your Case Number

Seizure Location

State S.D.

7-18-00  
198E-MP-43662 GR 43  
County Pine Ridge Indian Reservation

Check **ONE BOX** as Appropriate for Each Category:

## Cannabis Type

Cultivated Sinsemilla ☐  
Cultivated Non Sinsemilla ☐  
Cultivated Ditchweed ☐  
Cultivated Type Unknown ☐  
Ditchweed ☐  
Not Sure ☐

## Plant Maturity

Mature ☒  
Immature ☐  
Unknown ☐

## Cannabis Sample

Bud ☐  
Leaf ☒  
Not Sure ☐

## Grow Location

Outdoor ☒  
Indoor ☐  
Already Harvested ☐

Number of Plants in Seizure

Weight of Seizure, (if known)

107.5 plants  
lbs./Kg.

Is Seizure Weight from a Fresh Green Plant? Circle one: (Yes) No

Average Mature Plant Canopy Diameter

Average Mature Plant Height

6 feet

Comments:

Determine THC concentration of  
plant material and provide results to  
SA Cresalia at the FBI ASAP @ (605) 343 9632

FD-302 (Rev. 10-6-95)

- 1 -

## FEDERAL BUREAU OF INVESTIGATION

Date of transcription 07/28/2000

Cheryl Burke, Administrative Coordinator, for the University of Mississippi, National Center for Natural Products Research was telephonically contacted by the interviewing agent at telephone number 662-915-5928, on Tuesday, July 25, 2000. Burke was advised of the identity of the interviewing agent. Burke advised she had received the Fed Ex package from the Rapid City FBI Office and had brought the plant sample to the laboratory for testing.

On Wednesday, July 26, 2000, the interviewing agent telephonically contacted Burke at 662-915-5928. Burke advised the analysis on the evidence had been completed and the results showed there was zero THC. Burke explained there are five components that are tested for in the lab and they are as follows: CBD, CBC, THC, THCV, CBG, CBN. The only component detected in the analysis was CBD, and measured at 1.75.

Burke advised they destroy the plant material they use for testing and any plant material left over they retain for their own research. Burke advised the University of Mississippi will not return any left over plant material back to the FBI Office in Rapid City.

On Thursday, July 27, 2000, the interviewing agent received a facsimiled copy of the laboratory results from the University of Mississippi. The report identifies the case by FBI Case Number 198E-MP-43662 and shows the chemical components tested for and the results.

A copy of the laboratory report was provided to Assistant United States Attorney, Mark Vargo on July 27, 2000. A copy of the laboratory report is attached to this report.

Investigation on 07/27/2000 at Rapid City, South DakotaFile # 198EMP-43662-GR43Date dictated 07/27/2000

EXHIBIT



*The*  
**University of Mississippi**

Oxford • Jackson • Tupelo • Southaven

**NATIONAL CENTER FOR NATURAL PRODUCTS RESEARCH**

a division of The Research Institute of Pharmaceutical Sciences

July 25, 2000

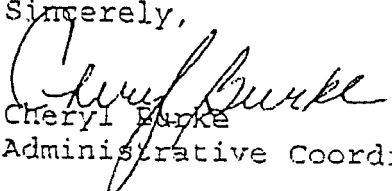
Mr. Charlie Cresalia  
FBI  
909 St. Joseph Street  
Suite #400  
Rapid City, SD 57701

Listed below is the result of the sample sent to our laboratory for analysis on July 18, 2000, your Case No. 198E-MP-43662-GR43.

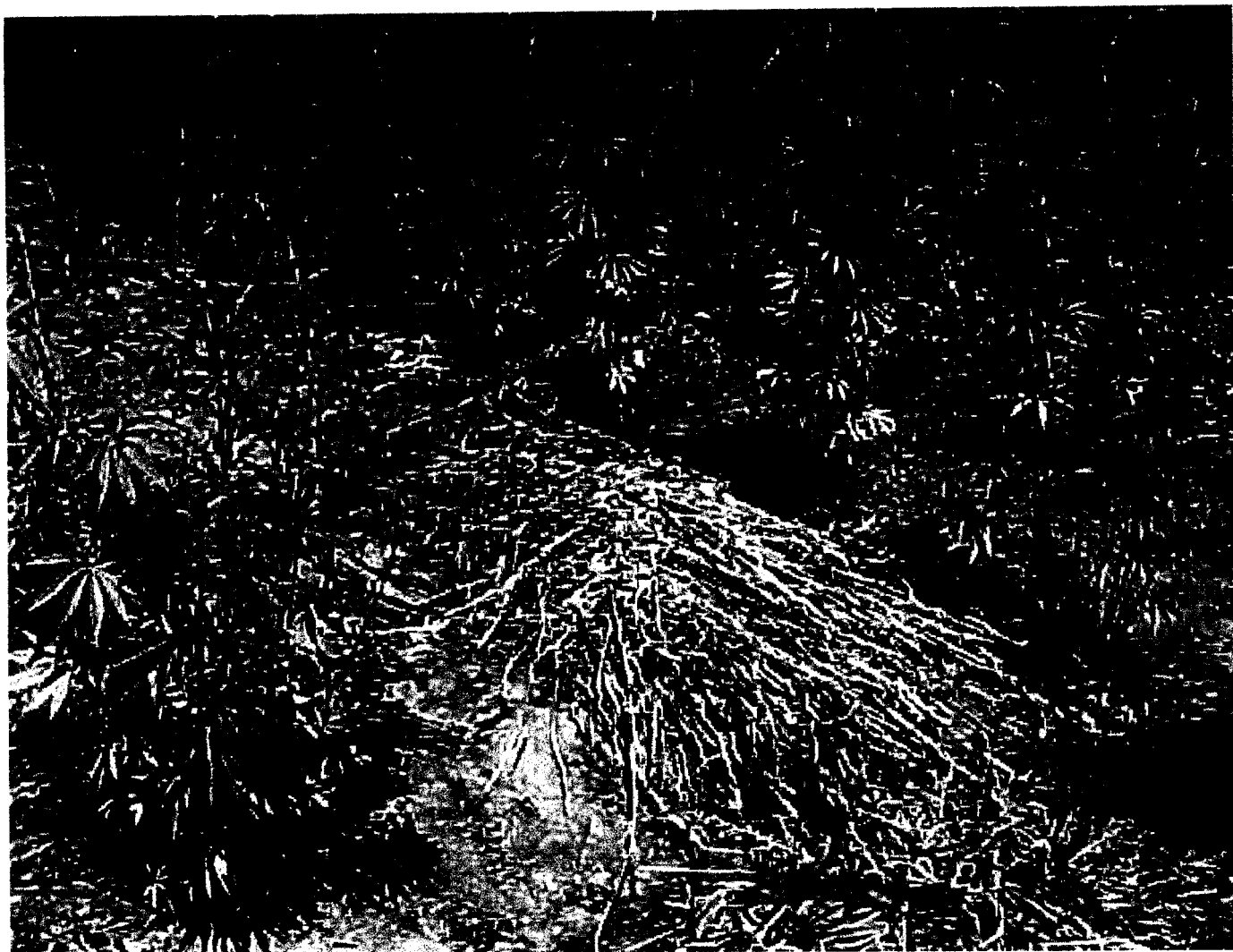
PM Num	Batch Num	Case Number	Date Recd	Date Anal.	Percentage of Chemicals					
					CBD	CBC	THC	THCV	CBG	CBN
42882	382	198E-MP-43662	07/00	07/00	1.75	-	-	-	-	-

If you need any additional information about these samples, please contact our staff at (662)915-5928.

Sincerely,

  
Cheryl Burke  
Administrative Coordinator







July 24, 2000

**MEMORANDUM**

To: Oglala Sioux Tribe Land Committee  
Everett Little White Man, Public Safety Department  
Cullan Clark, Criminal Investigator, Bureau of Indian Affairs  
Slim Butte Land Use Association  
OST Department of Agriculture

From: Sandy Sauser, Secretary, Slim Butte Land Use Association

RE: Industrial Hemp Agriculture

As of this date, two plots have been planted into industrial hemp. One plot is approximately one acre, north of Manderson SD, on land owned by Alex White Plume, a member of the Oglala Sioux Tribe. At this time, the plants are four to ten feet tall. It is a strong healthy stand showing no signs of pests or disease. Weeding is being done for the sake of accessibility.

The test being used to detect THC levels of the plants is being provided by Peter Dragla, M.Sc.P.Ag., an industrial hemp breeder and researcher working through the University of Guelph in Canada. The testing uses a photochemical process that detects even traces of delta-nine tetrahydrocannabinol. The process has been trademarked as a kit, and is recommended by Health Canada for hemp farmers there. Mr. Dragla visited our project in June and educated us on the use of the chemical test, and on the particulars of growing hemp. While he was here we tested many young plants that showed no THC content. Since that time we have requested and been sent another supply of chemical. Unfortunately customs has been holding it for analysis for a period of time to render the chemical unreliable, as it has a very short shelf life. I've been advised by Peter that another package is on its way, and paperwork is in place that we won't have the previous problems in shipping.

Plants are also being tested by the Criminal Investigation department of the BIA, results forthcoming as soon as available.

Mr. Dragla has also offered to assist us in seed propagation of his own strains, two have been recently registered with Health Canada, that we might have a seed supply ready for the market that will be opening up in the U.S., once agricultural hemp is legalized.

For this first year we are focusing on seed harvest for next year's planting. This year is also being used to learn about the plant and the different growing and processing techniques. As only one male plant is needed to pollinate a 10 foot area, the extra male plants are being pulled. The stalks are about 1/4 inch in diameter which is an ideal size for fiber extraction. We're now learning how to ret the plant (a soaking process) to release the fiber from the hurd. The first fibers have been extracted as of this week.

Some stalks are being used raw and freshly cut for weaving, opening up many possibilities of basketry and raffia production.

We have already been using hemp in construction situations. Fiber imported from Canada is being mixed into Portland cement to create a block that has half the weight and twice the durability of an all-concrete block. These are being used in a house being constructed by the Slim Butte LUA, located at the intersection of Slim Butte Road and BIA 32. The house is being insulated with hemp fiber, and the shingles (also imported from Canada) are a hemp fiber/polymer mix. Hemp press board is being used. The house is estimated to contain 50% hemp as a construction material.

The LUA has been most fortunate to receive support from a group of German professional people. We will be meeting in September to plan building projects for next summer. A variety of alternative housing workshops are being planned, many methods to include the use of hemp fiber. We are also planning to build a small hemp paper processing facility, and a hemp-crete block plant.

Our involvement with industrial hemp is a timely issue. As people lean toward more environmentally friendly methods of existence, hemp has exploded onto the scene for its diversity and prolific growing habits. Legal growing of industrial hemp throughout the United States is coming into being, and it is essential that we go into full scale production to take advantage of the economic status this plant can afford us. Our sovereign status and decision to legalize the growing of industrial hemp now will put us in position with seed to supply US growers, that will be worth millions and millions of dollars. The jobs that will be created to grow and process hemp will be a very significant consideration. And owing to the plant's many and diverse uses, new jobs and businesses will be created far into the future.

We as a tribe are taking a place in history in a good way. As we take this independent step we are giving ourselves a material we can use to greatly enhance our self-sufficiency, and at the same time do an environmental kindness to our most gracious Mother Earth. My prayer is that we work together to this end.

Please know that any and all input will be greatly appreciated.

Respectfully submitted,



Sandy Sauser, Secretary  
Slim Butte Land Use Association  
PO Box 288  
Pine Ridge, SD 57770  
605-867-2389  
graphics@gwtc.net

4-20-00

Read Instructions on Reverse  
before completing.

U.S. Department of Justice  
Drug Enforcement Administration

REPORT OF DRUG PROPERTY COLLECTED, PURCHASED OR SEIZED

1. HOW OBTAINED (Check) <input type="checkbox"/> Purchase <input checked="" type="checkbox"/> Seizure <input type="checkbox"/> Free Sample <input type="checkbox"/> Lab. Seizure <input type="checkbox"/> Money Flashed <input type="checkbox"/> Compliance Sample (Non-Criminal) <input type="checkbox"/> Internal Body Carry <input type="checkbox"/> Other (Specify) _____		2a. FILE NO.  IN-00-0032	2b. PROGRAM CODE  DCE/SP	3. G-DEP ID  NLM2L
4a. WHERE OBTAINED (City, State/Country) Shannon County, South Dakota	4b. DATE OBTAINED 08/24/00	5. FILE TITLE WHITE PLUME, Alex		
6a. REFERRING AGENCY (Name)	6b. REFERRAL <input type="checkbox"/> Case No. OR <input type="checkbox"/> Seizure No. No. _____	7. DATE PREPARED 08/24/00	8. GROUP NO. 59	

9. Exhibit No.	10. FDIN (10 characters)	11. ALLEGED DRUGS	12. MARKS OR LABELS (Describe fully)	APPROX. GROSS QUANTITY		15. Purchase Cost
				13. Seized	14. Submitted	
1	2000128403	Marijuana	Large paper bag containing ten smaller bags marked as sub-exhibits 1A - 1J, each containing a random sample taken from approximately 3720 plants of suspected marijuana.	679.7 gms		-0-

16. WAS ORIGINAL CONTAINER SUBMITTED SEPARATE FROM DRUG ? ☒ NO (included above) ☐ YES (If Yes, enter exhibit no. and describe original container fully)

REMARKS:  
Ex. 1 was seized incident to the execution of a federal search warrant at .4 miles west of junction BIA-24 and BIA-33, Pine Ridge Indian Reservation, South Dakota on the morning of August 24, 2000. The exhibit was maintained in the custody of S/A Salley and randomly sampled by S/A's Salley and Mancini. The ex. was maintained in S/A Salley's custody and processed by S/A Salley with the assistance of S/A's Hummel and Harvison. The ex. was subsequently sent to the NCRL for analysis.

17. SUBMITTED BY SPECIAL AGENT (Signature) J.C. Salley, S/A	18. APPROVED BY (Signature & Title) Larry Johnson, RAC	08/24/00	08/24/00
--	---	----------	----------

LABORATORY EVIDENCE RECEIPT REPORT

19. NO. PACKAGES 1	20. RECEIVED FROM (Signature & Date) J.C. Salley 08/24/00	21. Print or Type NAME and TITLE
22. SEAL <input type="checkbox"/> Broken <input checked="" type="checkbox"/> Unbroken	23. RECEIVED BY (Signature & Date) Yolonda S. Walford 8-28-00	24. Print or Type NAME and TITLE Yolonda S. Walford, Evidence Technician

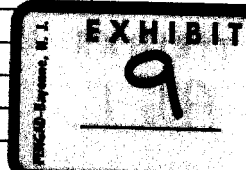
LABORATORY REPORT

25. ANALYSIS SUMMARY AND REMARKS

SEE ATTACHED

26. Exhibit No.	27. Lab. No.	28. ACTIVE DRUG INGREDIENT (Established or Common Name)	CONCENTRATION			32. AMT. OF PURE DRUG	33. RESERVE
			29. Strength	30. Measure	31. Unit		
01	132115						

34. ANALYST (Signature) Robert Washington	35. TITLE FORENSIC CHEMIST	36. DATE COMPLETED 09/06/00
--	-------------------------------	--------------------------------





U.S. Department of Justice  
Drug Enforcement Administration  
North Central Laboratory

## CHEMICAL ANALYSIS REPORT

To: Larry Johnson  
Resident Agent in Charge  
Sioux Falls Resident Office

Date: September 11, 2000

Attn: SA J. C. Salley

Case Number: IN-00-0032

Analysis Summary and Remarks:

Laboratory No.: 132115  
Exhibit 1 contains: Marijuana  
Gross Wt.: 405.5 grams (g)  
Net Wt.: 259.6 g  
Active Drug Ingredient: Marijuana  
Amount of Pure Drug: NA  
Reserve Wt.: 226.6 g

Note: 25.0 g removed for special program

*Adriest Washington*  
Analyst Adriest Washington 9/12/00  
Forensic Chemist  
Date Completed: 09/06/00

*Ralph C. Cottrell III* 9/13/00  
Approved by Ralph C. Cottrell III  
Laboratory Director  
Laboratory Location: Chicago, Illinois

U.S. Department of Justice  
Drug Enforcement Administration

## REPORT OF DRUG PROPERTY COLLECTED, PURCHASED OR SEIZED

1. HOW OBTAINED (Check) <input type="checkbox"/> Purchase <input checked="" type="checkbox"/> Seizure <input type="checkbox"/> Free Sample <input type="checkbox"/> Lab. Seizure <input type="checkbox"/> Money Flashed <input type="checkbox"/> Compliance Sample (Non-Criminal) <input type="checkbox"/> Internal Body Carry <input type="checkbox"/> Other (Specify) _____			2a. FILE NO. IN-00-0032	2b. PROGRAM CODE DCE/SP	3. G-DEP ID NLM2L
4a. WHERE OBTAINED (City, State/Country) Shannon County, South Dakota		4b. DATE OBTAINED 08/24/00	5. FILE TITLE WHITE PLUME, Alex		
6a. REFERRING AGENCY (Name)		6b. REFERRAL <input type="checkbox"/> Case No. OR <input type="checkbox"/> Seizure No. No. _____	7. DATE PREPARED 08/24/00	8. GROUP NO. 59	
9. Exhibit No.	10. FDIN (10 characters)	11. ALLEGED DRUGS	12. MARKS OR LABELS (Describe fully)	APPROX. GROSS QUANTITY	
2	2000128416	Marijuana	Large paper bag containing ten smaller bags marked as sub-exhibits 2A - 2J, each containing a random sample taken from approximately 2435 plants of suspected marijuana.	13. Seized 289.8 gms	14. Submitted
					15. Purchase Cost -0-
16. WAS ORIGINAL CONTAINER SUBMITTED SEPARATE FROM DRUG ? <input checked="" type="checkbox"/> NO (included above) <input type="checkbox"/> YES (if Yes, enter exhibit no. and describe original container fully)					

REMARKS:

Ex. 2 was seized incident to the execution of a federal search warrant at 9 miles south of junction BIA-41 and Highway 18, Pine Ridge Indian Reservation, South Dakota on the morning of August 24, 2000. The exhibit was maintained in the custody of S/A Mancini and randomly sampled by S/A's Salley and Mancini. The ex. was maintained in S/A Mancini's custody and processed by S/A Mancini with the assistance of S/A's Hummel and Harvison. The ex. was subsequently sent to the NCRL for analysis.

17. SUBMITTED BY SPECIAL AGENT (Signature) J.C. Salley, S/A <i>J.C. Salley</i> 08/24/00	18. APPROVED BY (Signature & Title) Larry Johnson, RAC <i>Larry Johnson</i> for 08/24/00
--	---

## LABORATORY EVIDENCE RECEIPT REPORT

19. NO. PACKAGES 1	20. RECEIVED FROM (Signature & Date) <i>FE 822783524712</i>	21. Print or Type NAME and TITLE
22. SEAL <input type="checkbox"/> Broken <input checked="" type="checkbox"/> Unbroken	23. RECEIVED BY (Signature & Date) <i>Yolonda S. Walford 8-28-00</i>	24. Print or Type NAME and TITLE <b>Yolonda S. Walford, Evidence Technician</b>

## LABORATORY REPORT

25. ANALYSIS SUMMARY AND REMARKS

SEE ATTACHED

26. Exhibit No.	27. Lab. No.	28. ACTIVE DRUG INGREDIENT (Established or Common Name)	CONCENTRATION			32. AMT. OF PURE DRUG	33. RESERVE
			29. Strength	30. Measure	31. Unit		
01	132116						

34. ANALYST (Signature) <i>Oddest Washington</i> 9/12/01	35. TITLE FORENSIC CHEMIST	36. DATE COMPLETED 09/06/00
37. APPROVED BY (Signature & Date) <i>Ralph C. Cottrell III</i> 9/13/00	38. TITLE LABORATORY DIRECTOR	39. LAB. LOCATION CHGO. mmm09/11/00

EXHIBIT  
10



U.S. Department of Justice  
Drug Enforcement Administration  
North Central Laboratory

## CHEMICAL ANALYSIS REPORT

To: Larry Johnson  
Resident Agent in Charge  
Sioux Falls Resident Office

Date: September 11, 2000

Attn: SA J. C. Salley

Case Number: IN-00-0032

Analysis Summary and Remarks:

Laboratory No.: 132116  
Exhibit 2 contains: Marijuana  
Gross Wt.: 210.8 grams (g)  
Net. Wt.: 67.6 g  
Active Drug Ingredient: Marijuana  
Amount of Pure Drug: NA  
Reserve Wt.: 64.6 g

*Odiest Washington*  
Analyst Odiest Washington 9/12/00  
Forensic Chemist  
Date Completed: 09/06/00

*Ralph C. Cottrell III* 9/12/00  
Approved by Ralph C. Cottrell III  
Laboratory Director  
Laboratory Location: Chicago, Illinois


UNITED STATES DISTRICT COURT

DISTRICT OF SOUTH DAKOTA

WESTERN DIVISION

**FILED**

SEP 29 2000

  
CLERK

	)	MISC. 00-03W
	)	
IN THE MATTER OF THE SEARCH OF	)	ORDER GRANTING MOTION
A FIELD LOCATED APPROXIMATELY	)	FOR DESTRUCTION OF
.4 MILES WEST OF THE JUNCTION OF	)	SEIZED MATERIAL
BIA ROAD 33 AND BIA ROAD 24	)	

On August 21, 2000, the Honorable Judge Andrew W. Bogue issued a search warrant authorizing officers of the United States to search for cannabis sativa plants in a field located approximately .4 miles west of the junction of BIA Road 33 and BIA Road 24. The warrant was executed on August 24, 2000. In the course of executing this warrant, government agents bundled the seized plants and removed ten randomly chosen samples consisting of stalks, leaves, and buds of individual plants. In addition, the agents made a video recording of the harvesting of the plants. Other than the ten samples, all the remaining plants were stored in a nonclimate-controlled secure storage facility. See Affidavit of Special Agent J.C. Salley at 1, (attached to Government's Brief in Support of Motion to Dismiss and Objection to Injunctive Relief ("Salley Aff.") and incorporated by reference in Government's Reply on Motion for Order Authorizing Destruction of Seized Material at 4).

On September 5, 2000, respondents Milo Yellow Hair, Joe American Horse, and Alex White Plume ("respondents"), filed a brief in opposition to the government's motion for destruction of the seized evidence. Respondents also requested an expedited evidentiary hearing on the matter. On September 15, 2000, the government filed a reply in which it notified the Court that the cannabis sativa plants were in a state of decomposition. According to the affidavit

**EXHIBIT**

of Special Agent Salley, the plants were already in a state of decay by September 7, 2000: "The leaves of even the plants on the outside of the bundles had rotted completely; the stalks were limp and covered with the remains of the rotten leaf material." Salley Aff. at 2.

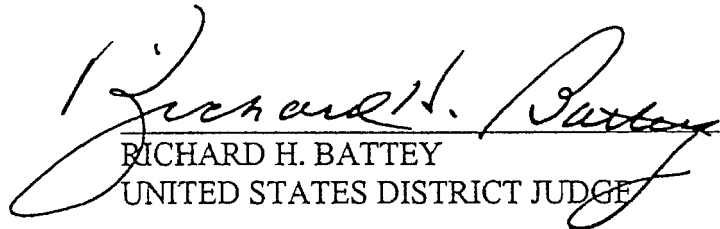
In view of the government's compliance with United States v. Scoggins, 992 F.2d 164, 167 (8<sup>th</sup> Cir. 1993) (holding government's destruction of seized marijuana plants not prejudicial to defendant where government agents sampled and videotaped the plants prior to destruction), and based upon the evidence that the plants have already decayed, it is hereby

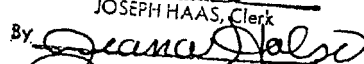
ORDERED that the government's motion authorizing destruction of seized contraband is granted.

IT IS FURTHER ORDERED that respondents' motion for an evidentiary hearing (Docket #4), and respondents' supplemental motion for evidentiary hearing (Docket #6) are denied.

Dated this 29<sup>th</sup> day of September, 2000.

BY THE COURT:

  
RICHARD H. BATTEY  
UNITED STATES DISTRICT JUDGE

UNITED STATES OF AMERICA }  
DISTRICT OF SOUTH DAKOTA } SS  
I, JOSEPH HAAS, Clerk of the United  
States District Court for the District of  
South Dakota, hereby certify that the  
above and foregoing is a true copy of  
the original now on file in my office.  
Dated: 9-29-00  
JOSEPH HAAS, Clerk  
By: 



CONSENT TO SEARCH

1. I HAVE BEEN ASKED TO PERMIT SPECIAL AGENTS OF THE DRUG ENFORCEMENT ADMINISTRATION TO SEARCH:

A field consisting of approximately three acres. That field can be reached by traveling approximately three miles north of Manderson, South Dakota, on BIA 33 and turning west on a dirt road for approximately one mile and then turning south for several hundred yards. The field is located to the east of the road and north and west at a trailer home occupied by Percy White Plume, as further depicted in the attached photo.

I HAVE BEEN ASKED TO PERMIT SPECIAL AGENTS TO SEIZE ANY PLANTS OF THE GENUS CANNABIS SATIVA, WHETHER REFERRED TO AS HEMP OR MARIJUANA, AND TO DESTROY ANY SUCH PLANTS.

2. I HAVE NOT BEEN THREATENED, NOR FORCED, IN ANY WAY.
3. I FREELY CONSENT TO THIS SEARCH, SEIZURE AND DESTRUCTION, PURSUANT TO THE TERMS CONTAINED IN THE ATTACHED LETTER DATED JULY 27, 2001.

7/27/01  
Date

Alex White Plume  
ALEX WHITE PLUME, Individually and  
As head of the White Plume tiospaye

Bruce Ellison  
BRUCE ELLISON  
Attorney for Alex White Plume and the  
White Plume tiospaye

J C Salley  
WITNESS

[Signature]  
WITNESS

EXHIBIT



U.S. Department of Justice

Michelle G. Tapken  
United States Attorney  
District of South Dakota

Post Office Box 5073 (605,330-4401)  
Sioux Falls, South Dakota 57117-5073 FAX: (605)330-4410

July 27, 2001

VIA FACSIMILE

Bruce H. Ellison  
Attorney at Law  
P.O. Box 2508  
Rapid City, SD 57709

Re: Alex White Plume

Dear Mr. Ellison:

This is to confirm our conversations regarding your client, Alex White Plume, signing a consent to authorize agents of the United States Drug Enforcement Administration to search certain property, and further authorizing them to seize any plants of the genus *cannabis sativa*, whether referred to as hemp or marijuana, and to destroy said plants.

The United States conditionally agrees not to use against Mr. White Plume his authorization to search, seize, and destroy said plants or any evidence obtained through the search, seizure, and destruction of said plants in any criminal proceeding under Title 21 of the United States Code.

This grant of use immunity is conditioned upon Mr. White Plume not planting or cultivating any such crop in the future without the authority of an order from the United States District Court.

Yours sincerely,

MICHELLE G. TAPKEN  
United States Attorney

A handwritten signature in black ink, appearing to read "Dennis R. Holmes".

DENNIS R. HOLMES  
Assistant United States Attorney

DRH:plh



EXHIBIT  
14

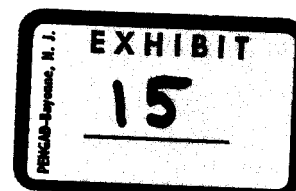
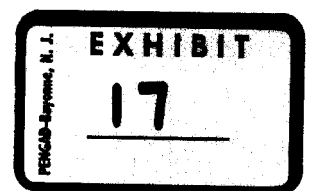




EXHIBIT  
16  
PENNSYLVANIA, N. J.



Read Instructions on Reverse  
before completing.

U.S. Department of Justice  
Drug Enforcement Administration

REPORT OF DRUG PROPERTY COLLECTED, PURCHASED OR SEIZED

1. HOW OBTAINED (Check) <input type="checkbox"/> Purchase <input checked="" type="checkbox"/> Seizure <input type="checkbox"/> Free Sample <input type="checkbox"/> Lab. Seizure <input type="checkbox"/> Money Flashed <input type="checkbox"/> Compliance Sample (Non-Criminal) <input type="checkbox"/> Internal Body Carry <input type="checkbox"/> Other (Specify) _____		2a. FILE NO. IN-00-0032	2b. PROGRAM CODE	3. G-DEP ID NLM2L
---	--	----------------------------	------------------	----------------------

4a. WHERE OBTAINED (City, State/Country) Shannon County, South Dakota	4b. DATE OBTAINED 07/31/01	5. FILE TITLE WHITE PLUME, Alex		
6a. REFERRING AGENCY (Name)	6b. REFERRAL <input type="checkbox"/> Case No. OR <input type="checkbox"/> Seizure No. No.	7. DATE PREPARED 08/02/01	8. GROUP NO. 59	

9. Exhibit No.	10. FDIN (10 characters)	11. ALLEGED DRUGS	12. MARKS OR LABELS (Describe fully)	APPROX. GROSS QUANTITY		15. Purchase Cost
				13. Seized	14. Submitted	
3		Marijuana	Cardboard box containing ten (10) paper bags marked as sub-exhibits 3a-3j each containing a random sample taken from approx. 3400 plants of suspected marijuana.		4.45 Kg approx.	-0-

16. WAS ORIGINAL CONTAINER SUBMITTED SEPARATE FROM DRUG ? ☒ NO (included above) ☐ YES (if Yes, enter exhibit no. and describe original container fully)

REMARKS:

Ex-3 was seized pursuant to a consent search on property managed by Alex and Percy White Plume on the Pine Ridge Indian Reservation, near Manderson, SD. Ex-3 was maintained in the custody of S/A Salley and randomly sampled by S/A Salley and S/A Hummel. The random samples removed from Ex-3 were transported by S/A Salley to the RCPD and secured, as witness by S/A Hummel. Ex-3 remained in the drug evidence vault until 08/02/01, when S/A's Salley and Mancini processed and sent Ex-3 to the NCRL for analysis.

\*\*\*\*\*Please test for THC\*\*\*\*\*

17. SUBMITTED BY SPECIAL AGENT (Signature) S/A J.C. Salley	18. APPROVED BY (Signature & Title) Larry L. Johnson, RAC
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LABORATORY EVIDENCE RECEIPT REPORT

19. NO. PACKAGES 1	20. RECEIVED FROM (Signature & Date) J.C. Salley 8-16-24 9/1/726	21. Print or Type NAME and TITLE
22. SEAL <input type="checkbox"/> Broken <input checked="" type="checkbox"/> Unbroken	23. RECEIVED BY (Signature & Date) Yolonda S. Wainford 8-3-01	24. Print or Type NAME and TITLE Yolonda S. Wainford, Evidence Technician

LABORATORY REPORT

25. ANALYSIS SUMMARY AND REMARKS

SEE ATTACHED

26. Exhibit No.	27. Lab. No.	28. ACTIVE DRUG INGREDIENT (Established or Common Name)	CONCENTRATION			32. AMT. OF PURE DRUG	33. RESERVE
			29. Strength	30. Measure	31. Unit		
03	139385						

34. ANALYST (Signature) ODIEST WASHINGTON	35. TITLE FORENSIC CHEMIST	36. DATE COMPLETED 09/28/01
37. APPROVED BY (Signature & Date) NELSON A. SANTOS 10/4/01	38. TITLE LABORATORY DIRECTOR	39. LAB. LOCATION CHGO. mmm10/03/01

EXHIBIT  
18



U.S. Department of Justice  
Drug Enforcement Administration  
North Central Laboratory

## CHEMICAL ANALYSIS REPORT

To: Resident Agent in Charge  
Sioux Falls Resident Office

Date: October 03, 2001

Attn: SA J. C. Salley

Case Number: IN-00-0032

Analysis Summary and Remarks:

Laboratory No.: 139385  
Exhibit 3 contains: Marijuana  
Gross Wt.: 3148 grams (g)  
Net. Wt.: 1287 g  
Active Drug Ingredient: Marijuana  
Amount of Pure Drug: NA  
Reserve Wt.: 1252 g

Note: 26.6 grams removed for special program

*Odiest Washington*  
Analyst Odiest Washington 3 Oct. 01  
Senior Forensic Chemist  
Date Completed: 09/28/01

*Nelson A. Santos* 10/4/01  
Approved by Nelson A. Santos  
Laboratory Director  
Laboratory Location: Chicago, Illmm



# Planting of the hemp



Ramona White Plume, right, the sister of Alex White Plume, handles the hemp-planting chore this year. She is joined here by her son Theo, 11.

The planting of the hemp field has become a family affair. Some of the youngsters, including Jesse Afraid of Hawk, 3, left, and Denise White Plume, 5, Alex White Plume's granddaughter, helped out Friday morning.



Photos by Steve McEnroe/Journal staff

## White Plumes hope 3rd time's a charm

By Heidi Bell Gease  
Journal Staff Writer

Winter lingers here, like the last guest at a party. It returns in mid-April, maybe once more in May, leaving one last blizzard before finally giving way to spring.

### Manderson

Still, Alex White Plume knew the time had come to plant a third crop of industrial hemp on Friday. "Last week, we woke up and heard the meadowlarks," he explained, so he knew the seeds would survive, even if cold weather returned. "Actually, I think that makes it stronger."

family stronger, too. Friday marked the third time they have planted hemp on their land near Manderson.

Twice before, they planted crops that grew. Twice before, federal agents came in just before harvest time to confiscate the plants. Twice before, the U.S. government did not file any charges against anyone in the family.

The raids upset the White Plumes, who want to produce and sell hemp oil and other products from the plants. "That really makes me angry," Alex said. "And it makes us more stubborn."

Industrial hemp is a form of



Alex White Plume, holding a dream catcher and a handful of hemp seed, asks for the blessing of the Great Spirit on the planting while his son Lance, right, burns sage, and his cousin Rocky Afraid of Hawk kneels to play the drum and sing a traditional Lakota song.

EXHIBIT

# Hemp: 'Absurdity of the federal regulations'

From Page C1

the Cannabis sativa plant, also known as marijuana. Unlike marijuana, hemp can't be smoked to get high. But it can be used to make everything from rope to paper to cloth to soap to animal feed. It's a hardy plant that requires little water.

Many believe hemp crops should be brought back to the Pine Ridge Indian Reservation, where they could provide badly needed jobs. In 1998, the Oglala Sioux Tribal Council voted to legalize hemp.

However, federal laws do not distinguish between hemp and marijuana. In the eyes of the U.S. government, it's illegal to grow either plant (although hemp products can be legally imported from other countries). And that's where things get interesting.

Tribal members say that because the Oglala Sioux Tribe is a sovereign nation, its rules should apply to hemp on the reservation. But U.S. government agents twice have crossed reservation borders to seize the crops, without filing criminal charges.

Last November, the Oglala Sioux Tribal Council passed a resolution calling on Congress to "restrain its agents from interfering with the tribe's sovereign right to exercise land-based economic-development programs on Pine Ridge."

"It's so picture-perfect an example of the absurdity of the federal regulations," Bob Newland, a Hermosa hemp activist who attended Friday's planting, said. "This appears to me to be a perfect test case."

Federal authorities told White Plume that if he planted a second crop, he would be charged in federal court. So last year, Alex's brother Percy White Plume did the planting. This year, sister Ramona White Plume did the planting. And there are six more brothers and sisters, plus numerous nieces and nephews, waiting their turn.

Ramona said it was discouraging to see the plants seized just before harvest.

"I decided I wanted to (plant) next because I wanted to say something to that," she said. "It was real hurtful that they had the audacity to do that ... I took it real personal, I guess."

So Friday morning, about 40 family members, friends and supporters drove under tribal flags to gather on the White Plumes' land.

Children threw sticks into the creek and ran races over clumps of newly turned dirt, the family dog at their heels.



Steve McEnroe/Journal staff

Alex White Plume points out a bald eagle soaring overhead to his grandson Johnny. White Plume said it was a good sign for the eagle to fly by just before Friday's planting of the family's industrial-hemp plot.

Adults chatted in the warm spring sunshine.

Then they gathered in a circle for a ceremony to bless the seed. Rocky Afraid of Hawk, a cousin of the family, prayed and sang a drum song to the Four Directions.

"The Creator has created this plant for a reason, and it has never gotten a chance to complete its full circle," Afraid of Hawk said. Government has no right to condemn a plant or animal, he said. "It has a reason to live."

Ramona spoke, and so did Alex and Newland, who urged the group to circulate petitions to help eliminate state barriers to industrial-hemp production.

With that, the group fanned out across the field, many holding Styrofoam cups filled with hemp seed. In previous years, the White Plumes planted about 25 pounds of seed. This year, they had only 14 pounds, so the small brown seeds were carefully placed into the rich earth one at a time.

'I always resisted anything the government did ... and here we were doing farming activities.'

— Alex White Plume, hemp grower

This was the first time the ground had been plowed. "I always resisted anything the government did ... and here we were doing farming activities," Alex said, laughing. "I was like, 'Oh no, I hope the cousins don't see me. ... Somebody will be bringing me some bib overalls.'"

He said the seed used was free of tetrahydrocannabinol (THC), the psychoactive ingredient in marijuana that gives a "high." But he didn't say where the seed came from. "I really don't know, because a couple of years ago, I walked out my door and I tripped over a bag of it," he said with a grin. "And I'm sticking to my story."

Most everyone, except for Alex and Percy, planted a few seeds. Juanita Eagle Crow, a student in Alex White Plume's Lakota history and culture class at Oglala Lakota College, crouched down, carefully smoothing the dirt. Nearby, Misti Brave helped two preschoolers plant seeds. "Get your hands dirty, like that," she told them.

Alex sat on a log chatting with friends, including Marvin Kammerer, a Meade County rancher who attended.

"Remember when you called the DEA fascists?" White Plume asked.

"Oh yeah," Kammerer replied.

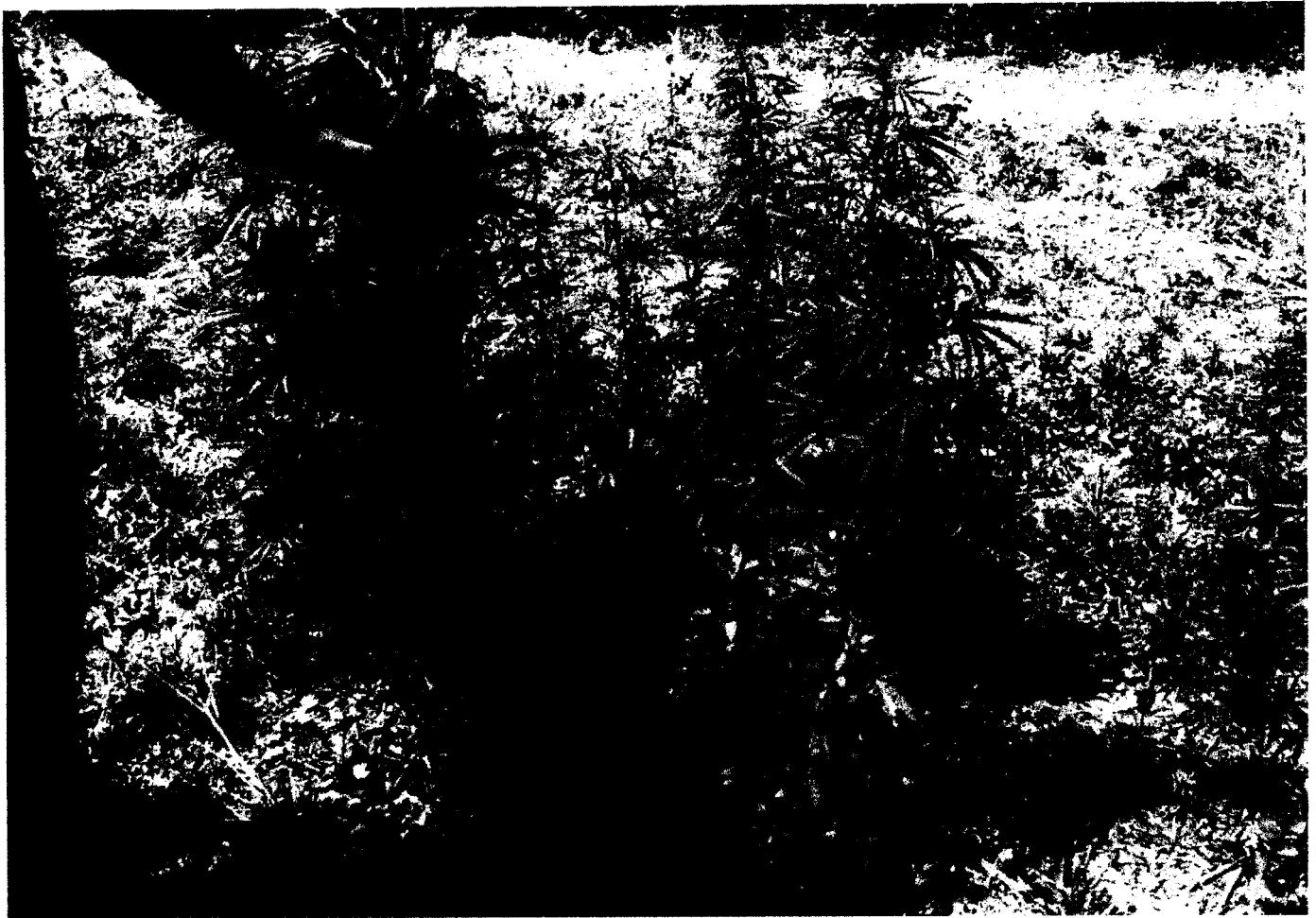
White Plume's grandchildren came and went, munching doughnuts and sampling a tube of hemp lotion. One grandson, wearing a cap that read "100 percent hemp — Lakota," rubbed the lotion vigorously between his rough little "B-O-Y hands," as Alex called them.

"Papa, my hands are soft now, see?" the boy said.

There was no sign of federal agents, though they reportedly knew the family was planting. But there was another visitor. As Alex gazed up at the sky, he spotted a bald eagle circling in the blue overhead.

"That's a good sign," he said, pointing it out to the others. "Aah, that's beautiful. Well, I know everything's going to be good now."

Questions or comments? Contact reporter Heidi Bell Gease at 394-8419 or heidi.bell@rapidityjournal.com.





# Area family harvests hemp crop

■ A symbolic harvest celebration is set for Aug. 14.

By Heidi Bell Gease  
Journal Staff Writer

The third time was a charm for Alex White Plume and his

**Manderson** family as they quietly harvested their first crop of industrial hemp this week.

"It really felt good," White Plume said Friday. "Just like a sense of relief."

This was the third straight year the White Plume family planted hemp on their land near Manderson. Two years in a row, federal agents confiscated the plants before they could be harvested, although the U.S. government did not file any charges against any of the White Plumes, who planned to produce and sell hemp oil and other products from the plants.

This time, family members beat government agents to the punch. They harvested most of the 3.5-acre crop Monday night.

See **Hemp**, Page B6

EXHIBIT

24

# Hemp: Plants are industrial hemp

From Page B1

"They weren't that tall, but they were done pollinating," White Plume said. "So we took some out, we cut it and it's dried."

The dried hemp already has been sold to Madison Hemp & Flax Co. of Lexington, Ky., which joined with the Kentucky Hemp Growers Cooperative Association to ship a trailer full of Canadian hemp to the Pine Ridge Indian Reservation after the White Plumes' first crop was confiscated in 2000. That hemp was to be used for bricks in a hemp house.

Industrial hemp is a form of the cannabis sativa plant, also known as marijuana. Unlike marijuana, hemp cannot be smoked to get high. But it can be used to make everything from rope to paper to cloth to soap to animal feed, and it requires little water. White Plume said the seeds they planted contained little or no tetrahydrocannabinol, the ingredient in marijuana that produces a "high."

Federal laws do not distinguish between hemp and marijuana, making it illegal to grow either one (although hemp can be legally imported). But in 1998, the Oglala Sioux Tribal

**'I think they were meant to be here.'**

— Alex White Plume, talking about this year's hemp plants

Council voted to legalize hemp. Tribal members say that because the Oglala Sioux Tribe is a sovereign nation, its laws should apply on the reservation.

The Kentucky buyers will visit the White Plumes on Wednesday, Aug. 14, to pick up the hemp. That same day, the public is invited to attend a harvest celebration and symbolic harvest of one small hemp plot.

All are welcome, White Plume said, and thanksgiving ceremonies will begin about 10 a.m. He has already heard from people all over the country who are interested in attending. "I can't figure out how they hear about it," he said. "Somebody's spreading the word."

This year's hemp crop was not as impressive as in years past, when plants grew to

12 or 13 feet tall. The drought kept this year's plants to half that size.

But White Plume pointed out that tall prairie grasses grew only about a foot this year, so the hemp plants "still outgrew everything around."

"I think they were meant to be here," he said.

White Plume would not say how much hemp was harvested, but he said it was basically a symbolic amount.

"This was a contract between our family and that company from Kentucky," he said. "We just wanted to keep our word that we could deliver. It took a long time, but we kept our word."

There was at least one benefit to the raids of 2000 and 2001. When it came time to harvest this year's crop, the White Plumes knew what to do. "I used a Weed Eater," White Plume said. "I learned that from the Bureau of Indian Affairs and the FBI."

Questions or comments on this story? Call reporter Heidi Bell Gease at 394-8419, or e-mail her at [heidi.bell@rapidcityjournal.com](mailto:heidi.bell@rapidcityjournal.com).