

*Sioux Nation Treaty Council*  
established in 1894  
PO Box 2003, Rapid City, SD 57709 USA

Nov. 12, 2015

Baskut Tuncak, UN Special Rapporteur on the implications for human rights  
of hazardous substances and wastes  
Office of the United Nations High Commissioner for Human Rights  
Palais des Nations,  
CH - 1211 Geneva 10  
Switzerland

Dear Sir:

It was an honor to meet you at the side event during the 30<sup>th</sup> Human Rights Council meeting in September. Your report to the HRC was very good. All people have the right to know if they are living near a dangerous situation.

The purpose of this complaint and report is to ask for your help to expose and help ameliorate a very dangerous situation regarding radioactive pollution in North America caused by more than 15,000 abandoned Uranium mines.

In mining lore in England and the United States, the underground miners took little canaries (birds) in small cages into the mines with them. As poisonous gases increased in the mines, the canaries breathing in the gases would either become unconscious and pass out, or die. The miners would know to leave the mine for their own safety.

The Sioux Nation is only a little miners' canary trying to awaken the people of the world to the hazards of radioactive pollution as detailed in the attached report. As the miner's canary, we are also trying to wake up the millions of Americans who are being exposed as well. The larger exposure to the world is through the agricultural and other products that are being exported. Are they being tested for radioactive pollution? This is what I mentioned during my intervention at the HRC meeting in Sept., 2015.

Thank you for your consideration of this complaint. As the miners' canary, my nation is experiencing many health problems caused by the radioactive pollution. As my people die from the highest cancer rates in the USA, this is genocide.

We are an ancient and distinct nation with our own language, culture, and values. Other Indigenous nations also experiencing similar effects include the Navajo, Pueblo, Havasupai, Shoshone, Cheyenne, Arapaho, Mandan, Hidatsa, Arikara, Spokane and Colville to name a few.

Your assistance in studying and exposing these hazardous waste situations in the United States is vital for the survival of my nation and other first nations of North America. It is also vital for the health of millions of other people in the United States and the world.

If there is any further information you need, please let me know and I will gladly comply. My email address is [cwhiteface@gmail.com](mailto:cwhiteface@gmail.com).

We look forward to your continued excellent work for the human right to life and good health for the people of the world.

Sincerely,

Zumila Wobaga (aka Charmaine White Face), Spokesperson

cc: UN High Commissioner for Human Rights  
UN Environment Programs Chemicals & Waste  
Special Rapporteur on Water  
Special Rapporteur on Health  
Special Rapporteur on Indigenous Peoples  
Secretariat, Permanent Forum on Indigenous Issues  
Chairperson, Expert Mechanism on the Rights of Indigenous Peoples  
UN Independent Expert on the promotion of a democratic and equitable international order  
International Committee on the Indians of the Americas  
North American Indigenous Peoples Caucus  
Organization of American States  
Amnesty International  
Human Rights Watch  
Physicians for Social Responsibility

Report to the Special Rapporteur on the implications for human rights  
of hazardous substances and wastes  
Office of the United Nations High Commissioner for Human Rights

**Uranium contamination of the Northern Great Plains  
of the United States of America**

**Geographic Area**

The geographic area of this complaint is the Northern Great Plains in the northern, middle geographic area of the United States (U.S.). This same area includes the Fort Laramie Treaty territory of 1868, a treaty protected territory set aside for the people of the Great Sioux Nation. [See Figure 1.]

**Who is the alleged victim(s) (individual(s), community, group, etc.):**

This complaint is being sent on behalf of the Sioux Nation, an Indigenous nation of approximately 90,000 people. However, all of the people residing in this area are also alleged victims as they are also being affected by the radioactive pollution. For the Sioux Nation, this is certain genocide as the majority of the Sioux people live in western South Dakota on four of the largest American Indian Reservations in the U.S. More than 25,000 Sioux people also live in surrounding cities and towns in western South Dakota and the southern portion of North Dakota.

The Sioux Nation is an ancient, Indigenous nation that at one time covered nearly half of the North American continent. During the influx and forceful occupation by European-American colonizers, the Sioux Nation signed many treaties with France, England, and finally the United States. The final treaty with the United States, the Fort Laramie Treaty of 1868 contained a provision for a land base that was a small area in which the Sioux nation could continue to survive. Article 2 of the Treaty states that the area shown in Fig. 1. would be for “the absolute and undisturbed use and occupation” of the Sioux nation.<sup>1</sup> However, with the discovery of gold in the Black Hills in 1874, the U.S. government allowed miners and settlers into the area.

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<sup>1</sup> Fort Laramie Treaty, April 29, 1868 (15 Stat., 635. Ratified, Feb. 16, 1869. Proclaimed, Feb. 24, 1869) The Fort Laramie Treaty of 1868, under Article 12 can only be changed by three-fourths approval of all adult Sioux males. Although this has never happened, the United States, in violation of their own Constitution, Article VI; and federal law, the March 3<sup>rd</sup> Act of 1871, forced the Sioux people into prisoner of war camps, now called American Indian Reservations located primarily in the state of South Dakota.

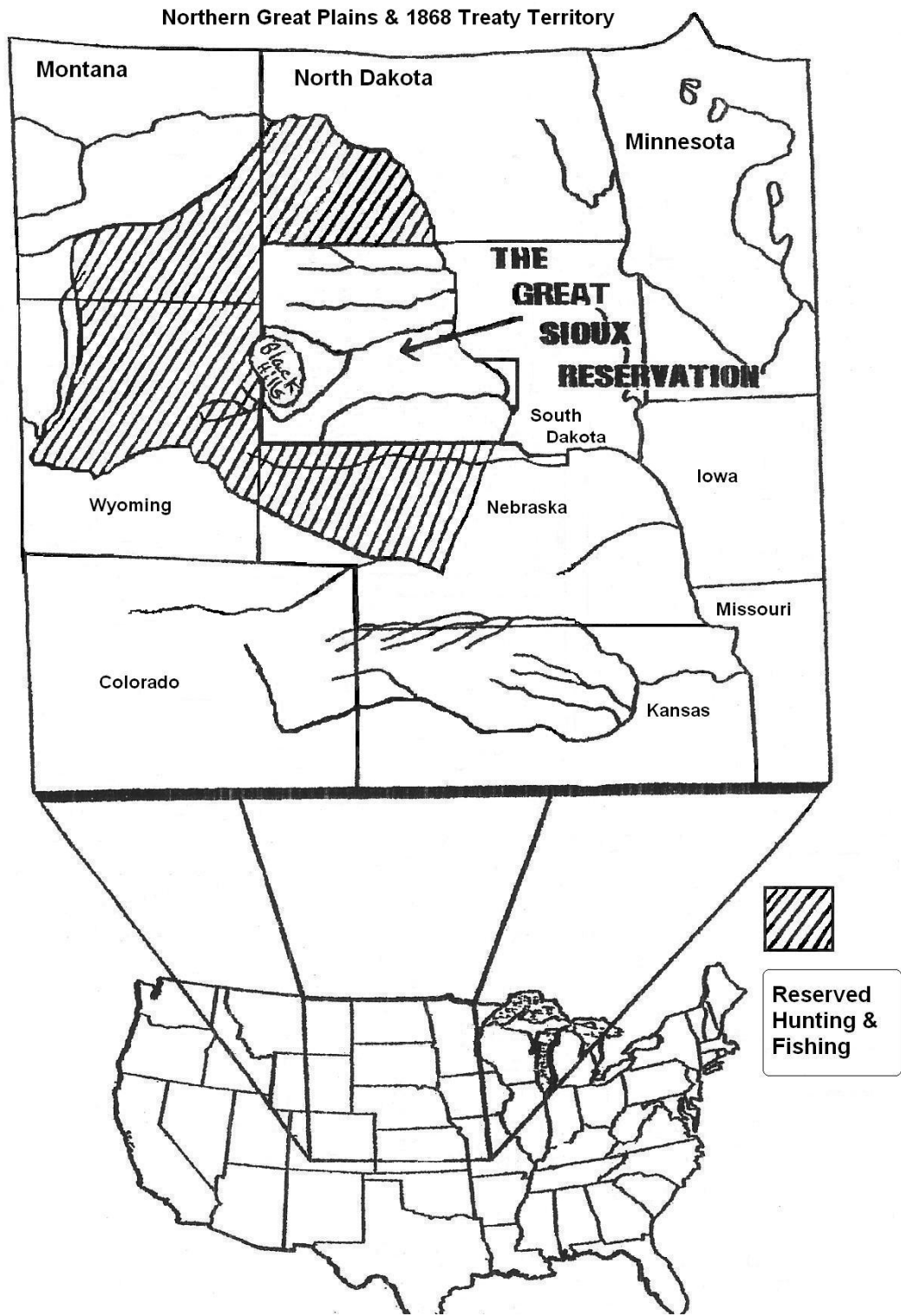


Figure 1. The Northern Great Plains and the 1868 Fort Laramie Treaty Territory

Currently, mining of many minerals occurs in the 1868 Treaty Territory without

the free, prior, and informed consent of the legal land owners, the people of the Sioux Nation. No compensation has ever been given for the trillions of dollars in minerals unlawfully taken by the U.S. government.

In 1980, when the Supreme Court of the United States admitted the taking of the Black Hills was unlawful and illegal, but would not return that small portion of the Treaty territory, the Sioux Nation Treaty Council began approaching the United Nations for a resolution to this grave injustice.<sup>2</sup>

**Who is the alleged perpetrator(s) of the violation;**

**Please provide substantiated information on all the actors involved, including non-state actors if relevant.**

The perpetrators are many national and international mining and oil well companies, under the auspices of the U.S. federal government and include the governments of the states of Montana, Wyoming, North and South Dakota. Although there are many violations by extractive industries beginning in 1874 and continuing to today. The ones that are emitting radioactive pollution are the most hazardous and are the ones described in this Complaint.

The major alleged perpetrator is the U.S. government as their federal laws, rules and regulations allow the industries to operate within the 1868 Treaty Territory where the U.S. government does not have the authority to grant such operations.

The federal agencies involved include: the U.S. Department of the Interior, the U.S. Forest Service, the U.S. Bureau of Land Management, the U.S. Environmental Protection Agency, the U.S. Bureau of Reclamation, the U.S. Atomic Safety and Licensing Board, the U.S. Nuclear Regulatory Commission, and the U.S. Army Corps of Engineers and other federal agencies dealing with fiscal and mining regulations. The U.S. Bureau of Indian Affairs and the U.S. Indian Health Service are also negligent as they hold the responsibility for the health and wellbeing of the people of the Sioux Nation.

The state agencies regarding clean air, clean water, mining and drilling operations, natural resources, water resources and health in the following states are also complicit and come from the states of South Dakota, North Dakota, Montana, and Wyoming in which the 1868 Treaty territory is located. (See Fig. 1) Their departments and agencies grant permission or licenses and oversee the numerous private industries which conduct the extractive processes. The industries pay taxes and excise fees to these states. Their

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<sup>2</sup> (See also Study on treaties, agreements and other constructive arrangements between States and indigenous populations, Final report by Miguel Alfonso Martinez, Special Rapporteur to the UN Commission on Human Rights., Paragraph 281, E/CN.4/Sub.2/1999/20)

departments and agencies can be found online by the state name followed by the department name. For example: South Dakota Department of Environment and Natural Resources. The governments of these states are also complicit as their laws, rules and regulations govern the state agencies. This would also include county governments.

The number of private businesses conducting the extractive processes are too numerous to mention in this complaint. However, they would not be able to contribute to the radioactive pollution without the permission of the federal, state, and county government agencies and departments.

**Identification of the person(s) or organizations(s) submitting the communication (this information will be kept confidential);**

As a general rule, the identity of the source of information on the alleged violation is always kept confidential. When submitting information please indicate whether there are any of the submitted information which you would like to remain confidential.

The Sioux Nation Treaty Council established in 1894 is submitting this communication through their Spokesperson, Zumila Wobaga (also known as Ms. Charmaine White Face). There is no need to keep any of the submitted information confidential, as the information has been presented many times seeking resolution in many fora.

**Date, place and detailed description of the circumstances of the incident(s) or the violation:**

The information submitted can refer to violations that are said to have already occurred, that are ongoing or about to occur. Information should include the legal remedies, if any, taken at the national level or regional level, and any other relevant information on the various aspects of the case.

The incidents in this complaint have already occurred, but are also ongoing. The consequences of radioactive waste will last for thousands of years. This complaint is presented to seek help in minimizing the damage that has already been done, and also to stop any further damage. The following are three major issues regarding radioactive pollution that are grievously affecting the health of the people of the Sioux Nation. However, these issues are also affecting all other people living in this area, and places beyond, and is another reason this complaint is being submitted.

The issues are 1. Abandoned Uranium Mines (AUMs), 2. Surface Strip Coal Mining and Coal-fired Power Plants, and 3. the Bakken Oil Range and its radioactive waste .

The two issues of the AUMs and Surface Strip Coal Mining and Coal-fired Power Plants have been occurring for more than 60 years to today. The Bakken Oil Range issue has only begun in the past 15 years but the problem of the radioactive waste without any remediation or reclamation will continue for thousands of years.

### **1. Abandoned Uranium Mines (AUMs)**

Beginning in the 1950s and continuing into the 1970s, more than two-thousand (2,000+) open-pit Uranium mines were dug in the 1868 Treaty Territory in the Northern Great Plains region which includes the American states of Montana, Wyoming, North and South Dakota.<sup>3</sup>

However, the majority of these open-pit mines were never covered over, or reclaimed as reclamation laws were not in place at the time of their closure. One of the larger open pit mines in the southwestern portion of South Dakota would cover a mile square. Called the Darrow Pits mine, it still sits uncovered. Therefore, the winds can pick up radioactive particles in the dust and carry it from the West and Northwest to the South and Southeast. South Dakota lies in the southern and eastern focus of the wind currents. With the prevailing westerly winds, the dust is then carried further East and South over the rest of the American states.

When it rains or snows, these large holes in the ground, the abandoned Uranium mines, collect water which becomes toxic with radioactive pollution then runs off into creeks and streams, or soaks into the ground entering underlying aquifers.

A nuclear physics professor from the University of Michigan, who also studied the radioactive emissions at Fukushima shortly after the tsunami and nuclear power plant accident, stated that the levels she and her students found in one abandoned Uranium mine in South Dakota were four (4) times higher than at Fukushima!<sup>4</sup> Nevertheless, after years of bringing this to the attention of both state and federal lawmakers, nothing has been done to stop this devastating situation.

In addition, according to the U.S. Bureau of Reclamation, there are more than 15,000 AUMs in primarily 14 western American states.

*“The uranium mining industry began in the U.S. in the 1940s primarily to produce uranium for weapons and later for nuclear fuel. Although there are about 4,000 mines with documented production, EPA, with information*

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3 ( <http://www.cleanuptheminers.org/wp-content/uploads/2013/11/URANIUM-IMPACTS-IN-LAKOTA-TERRITORY.pdf> Table 1, Pages 5 & 6.)

4 [www.defendblackhills.org](http://www.defendblackhills.org)

*provided by other federal, state, and tribal agencies, has identified 15,000 mine locations with uranium occurrence in 14 western states. Most of those locations are found in Colorado, Utah, New Mexico, Arizona, and Wyoming, with about 75% of those on federal and tribal lands. The majority of these sites were conventional (open pit and underground) mines.”<sup>5</sup>*

Other than Wyoming, no mention is made of all the other abandoned Uranium mines in the Northern Great Plains. However, very little to nothing has been done to clean up any of these mines at all. For decades, the U.S. Bureau of Reclamation and the Environmental Protection Agency have known about these abandoned Uranium mines but have not informed the public, nor have they informed the Congress of the need to remediate these mines. There are thousands of other kinds of mines for other minerals that have also been left abandoned. The agencies only count the number but do not take into consideration the long term health effects that the mines, particularly radioactive mines, can have on the general public.

And so the abandoned Uranium mines continue to emit high levels of radiation into the air, the rain and snow pushes it into streams and rivers, and radioactive water collects in aquifers that provide drinking water to many people. Unfortunately, the EPA does not monitor or regulate naturally occurring beta and photon emitters like Thorium, the first decay product of naturally occurring Uranium.<sup>6</sup> The tribal, city, and state water departments report that the water is within EPA guidelines, and it is. As long as the EPA does not monitor ALL radioactive particles, the water departments are correct in their reports while the people drink water contaminated with radioactive particles endangering their health and future generations with genetic abnormalities.

Furthermore, the dust and rain is also carried over some of the best agricultural land in North America endangering crops, animals, and wildlife. Many of these agricultural products are sent around the world. Are they radioactive?

This complaint is being sent to you on behalf of the Sioux Nation as we do have the health studies for our population. According to a study conducted for the U.S. Indian Health Service, the Sioux people of the Northern Great Plains have the highest rate of many cancers in the United States.<sup>7</sup>

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5 [http://www.abandonedmines.gov/wbd\\_um.html](http://www.abandonedmines.gov/wbd_um.html)

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[http://www2.epa.gov/safewater/radionuclides/pdfs/guide\\_radionuclides\\_smallsystems\\_compliance.pdf](http://www2.epa.gov/safewater/radionuclides/pdfs/guide_radionuclides_smallsystems_compliance.pdf) p. 16 footnote

7 Cancer Mortality Among American Indians and Alaska Natives: Regional Differences, 1999-2003; Donald Haverkamp, MPH; David Espey, MD; Roberta Paisano, MHS; Nathaniel Cobb, MD;



Prior to the United States occupying our territory, we did not even have cancer. Although our Treaty territory covers all of western South Dakota, there are 272 AUMs within the state of South Dakota alone near three of the largest American Indian reservations where the Sioux people live. Our Treaty territory also includes parts of North Dakota, Montana, Wyoming, and Nebraska. There are more than 2,000 AUMs in Wyoming alone. In 2006, the state of South Dakota conducted a study of the surface water in the Cheyenne River which runs on the borders of two of the American Indian reservations.

“Only one sample analyzed for dissolved uranium exceeded the drinking water MCL (Maximum Contaminant Level), and that sample was collected in the Cheyenne River at the South Dakota /Wyoming border.”<sup>8</sup>

#### Remedies regarding the Abandoned Uranium Mines

Although the state of South Dakota is aware of this contamination of the Cheyenne River, and of the other rivers from reports sent to the Department of Environmental and Natural Resources by the environmental organization, Defenders of the Black Hills, nothing has been done to stop the radioactive contamination. The South Dakota representatives to the U.S. Congress have also been informed of the situation regarding the abandoned Uranium mines, but they also have done nothing even when presented with a draft law to begin the clean up.

Petitions with hundreds of signatures, and hundreds of letters asking for the cleanup of these AUMS in the Northern Great Plains alone have been sent to President Barak Obama, and his wife, Michelle. No response has ever been received. Three years ago, a draft of a federal bill was sent to Congress which still has not even been introduced after years of rewriting to answer legal questions.

On June 8, 2007, and again from Feb. 18 to March 7, 2008, a report containing this same information was given to the United Nations Committee on the Elimination of Racial Discrimination at their 72<sup>nd</sup> session.<sup>9</sup> Help from the World Health Organization (WHO) for a study on the abandoned Uranium mines situation in the United States was also given as a recommendation to the Permanent Forum on Indigenous Issues. The recommendation was accepted and presented in their report to the Human Rights Council but the WHO never did a study. This issue of abandoned Uranium mines and their effect on the Sioux Nation was also presented many times at the United Nations

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February, 2008

8 Summary of Surface Water Quality Sampling in Western South Dakota for Uranium, 2006

9 A copy of the 90 page report which includes all the documents pertaining to the report, both before and after the UN CERD meeting, is available upon request of the Sioux Nation Treaty Council, PO Box 2003, Rapid City, SD 57709.

during the debates of the Intercessional Working Group on the Draft Declaration on the Rights of Indigenous Peoples.

As this dangerous situation of allowing large amounts of radioactive pollution to contaminate the central part of the United States has been allowed to continue for more than 60 years, we are coming to the United Nations to ask for your help. For us, the members of the Great Sioux Nation, our increased diseases and other health problems caused by nuclear radiation in the air and the water is certain genocide.

## **2. Surface Strip Coal Mining and Coal-fired Power Plants**

The Northern Great Plains Region also contains large amounts of coal. The coal is strip mined as it is near the surface. The Big Thunder Coal mine in Wyoming calls itself the largest coal strip mine in the country. North Dakota also contains large coal strip mines, and numerous coal fired power plants as does Montana. All of these lie within the Great Sioux Nation Treaty territory, and again the Sioux Nation has not given consent to any of this.

In the process of strip mining the coal, huge amounts of dust are generated containing not just carbon, sulfur, and nitrous oxides, but also radioactive particles as the coal is laced with Uranium and its decay products.<sup>10</sup> The radioactive dust is carried into South Dakota and the Sioux Indian Reservations by the prevailing winds to pollute the land and the water, and breathed in by humans, animals and wildlife. The dust also settles on crops and falls in rivers, streams, which often irrigate the crops. These crops from the “bread basket of the world” are then shipped all over the planet.

In addition, the United States does not regulate or monitor radioactivity in coal mining or coal-fired power plants. Beginning in October, 2015, the EPA will finally begin regulating radioactivity in coal ash, the waste left over from coal fired power plants.<sup>11</sup>

In the strip mining of coal, huge brown colored clouds can be seen for miles around with the blasting that occurs to loosen the coal from the deposits. These clouds also contain radioactive particles which are spread as the wind carries them to the east and south. The Sioux Nation and the people living in South Dakota are the first to continually breath in the radioactive coal dust from the strip mining of coal in Wyoming’s Powder River Basin, from the southeastern corner of Montana, and from the central part of North Dakota. The coal-fired power plants in these three states also emit radioactive

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<https://books.google.com/books?id=2CA1AQAAIAAJ&pg=PA405&lpg=PA405&dq=Uranium+in+the+northern+great+plains&source=bl&ots=GCUA51f98O&sig=P5T18WOnWbUs7h8BNhw147B0x5c&hl=en&sa=X&ved=0CD4Q6AEwBGoVChMIreri-NyJyQIViqweCh1RjQJU#v=onepage&q=Uranium%20in%20the%20northern%20great%20plains&f=false> P. 407

11 <https://nicholas.duke.edu/news/radioactive-contaminants-found-coal-ash>

radon gas which floats into South Dakota and further affects the Sioux people, and all people living downwind from these plants.

Finally, as the coal is shipped to both the East and West Coasts of the United States, and many places along the way, the radioactive pollution from either the transported coal on mile-long trains running every twenty minutes, or the radioactive gas emitted from the coal-fired power plants are also affecting millions of people in the cities and towns on both East and West Coasts.

Again, the members of the Sioux Nation who receive the brunt of this pollution as we are surrounded by both the mining and power plants, are asking for help from the United Nations to protect our right to life and good health.

### **3. Bakken Oil Range and radioactive waste**

Although oil was discovered in central North Dakota in the 1950s, serious drilling did not begin until the year 2000 with the new technology and fracking. The Bakken oil range became one of the major oil producers in the U.S. beginning in 2000. However, the drill waste is radioactive and is not being adequately handled or monitored. Consequently, some of it has begun to enter the streams which enter into the Missouri River.<sup>12</sup> That River is the source of water for five Sioux Reservations downstream: Standing Rock, Cheyenne River, Lower Brule, Crow Creek, and Yankton. Although all the Tribal governments in the Region have declared the reservations to be nuclear free areas, they are unable to rectify this situation which is under the authority and control of the U.S. Army Corps of Engineers. In addition, the Missouri River enters the Mississippi River and hundreds of towns and cities along these routes drink the water.

### **Conclusion**

The Sioux Nation is the miners' canary, the small warning signal of danger from the amount of radioactive pollution that is being emitted in the United States from many sources. This complaint is being submitted to the United Nations asking for help to stop this radioactive pollution as our warnings are not being heeded.

As the mandate of the Special Rapporteur on the implications for human rights of hazardous substances and wastes is "to examine the human rights aspects of hazardous products from generation to disposal", we are coming to you with the foregoing information. The human right to life, the right to health, water, and uncontaminated food is paramount for the continued existence of the Sioux Nation and other aboriginal nations in North America. It is also paramount for the human rights to life and health for

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12 <http://drcinfo.org/2015/03/20/bakken-oil-spill-threatens-missouri-river-indianz-com/>

the rest of the population of American citizens experiencing the same amount of radioactive pollution. Please consider these millions of people when you consider bringing this situation to the attention of the Human Rights Council and the United