

**From:** Peter Capossela <[peter@pejutatokahe.com](mailto:peter@pejutatokahe.com)>  
**Sent:** Monday, February 2, 2026 8:26 PM  
**To:** Binegar, Brenda <[Brenda.Binegar@state.sd.us](mailto:Brenda.Binegar@state.sd.us)>  
**Subject:** [EXT] EXNI 453 motion to Board

Brenda -- attached is a motion with exhibit and certificate of service in the above docket. The motion is to the full board, requesting reconsideration of the Hearing Officer's *Order Fall River Ordinance* dated Dec. 21, 2025. .

Thank you.

Peter

--

**Peter Capossela**  
Attorney at Law  
Post Office Box 10643  
Eugene, Oregon 97440  
(541) 505-4883

**BEFORE THE STATE OF SOUTH DAKOTA**  
**DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES**  
**BOARD OF MINERALS AND ENVIRONMENT**

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IN THE MATTER OF CLEAN NUCLEAR	)
ENERGY CORP. URANIUM EXPLORATION	)
PERMIT APPLICATION	)
	)
EXNI 453	)
	)

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**INTERVENOR GREAT PLAINS TRIBAL WATER ALLIANCE, INC.**  
**MOTION FOR RECONSIDERATION OF THE**  
**“ORDER FALL RIVER ORDINANCE”**

COMES NOW, intervenor Great Plains Tribal Water Alliance, Inc., and respectfully moves the Board of Minerals and Environment for an order overruling the “Order Fall River Ordinance” entered by Hearing Officer Morris on December 21, 2025. The applicant initially raised this issue with a brief filed on August 14, 2025. At a pre-hearing conference on August 21, Hearing Officer Morris directed that additional briefs be filed by October 1. On December 1, the Great Plains Tribal Water Alliance filed its witness and exhibit disclosure, identifying Ms. Sarah Peterson as a witness for the purpose of informing the Board of her efforts to enact the ordinance by ballot initiative, and the reasons for doing so. However, an order was entered on December 21, 2025 stating “The Fall River County ordinance declaring uranium mining a nuisance in Fall River County is extraneous to the application under issue (sic) and the Board will not recognize the ordinance as applicable.”

Ms. Peterson, a local elder living in Hot Springs and a friend of the Tribes, now faces an obstacle to her testimony. By this motion, the Great Plains Tribal Water Alliance, Inc. respectfully requests that the Board of Minerals and Environment add this motion to its agenda for the upcoming meeting, and reconsider and reverse the “Order Fall River Ordinance” dated December 21, 2025 and on file in this docket..

This motion is based on the Affidavit of Sarah Peterson attached hereto as Exhibit A; the Legal Memorandum attached hereto; ARSD §74:09:01:08 (authorizing the Board to overrule hearing officer); SDCL §19-19-401 (relevant evidence admissible); SDCL §§45-6D-29(3) & (4) (criteria for issuance or denial of uranium exploration permit application); South Dakota’s judicially-established rules of statutory interpretation; and the papers and pleadings on file herein.

DATED this 2<sup>nd</sup> day of February 2026

By: Chase Iron Eyes  
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(605) 415-9238  
[Chase@Lakotalaw.org](mailto:Chase@Lakotalaw.org)  
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## LEGAL MEMORANDUM OF POINTS AND AUTHORITIES

Under ARSD §74:09:01:08, “Any decision made by the chair of the hearing is a final decision of the board unless the board overrules the decision of the chair of the board.” The “Order Fall River County Ordinance” should be overruled, because it runs afoul of South Dakota law in at least two respects:

- (1) it contravenes South Dakota evidentiary rule 401 on relevance, SDCL §19-19-401; and
- (2) it is inconsistent with the rules governing the interpretation of related statutes or ordinances. *E.g. Karlen v/. Janklow*, 339 N.W.2d 322, 323 (S.D. 1983).

### The County Ordinance is Relevant Evidence

Section 29 of the South Dakota Uranium Exploration Act provides that:

The board may not deny a permit, except for one or more of the following reasons...

(3) The adverse effects of the proposed uranium mining operation on the historic, archaeologic, geologic, scientific, or recreational aspects of affected or surrounding land outweigh the benefits of the proposed uranium exploration operation;

(4) The proposed uranium exploration operation will result in the loss or reduction of long-range productivity of watershed lands, public and domestic water wells, aquifer recharge areas, or significant agricultural areas...

SDCL §§45-6D-29(3)& (4).

Local residents arguably possess the best information on the “historic, archaeologic, geologic, scientific, or recreational aspects,” *id.*, of the proposed activity in their county. In her affidavit attached hereto as Exhibit A and incorporated by reference, Sarah Peterson explains the background to the ordinance: “I attended a meeting... to

discuss the water quality problems in local waters such as Pass Creek, Beaver Creek and the Cheyenne River, caused by run off from legacy uranium mining.” The fact that the residents of the county in which CNEC is contemplating to mine uranium have determined that such activity constitutes a nuisance *directly relates* to whether “the adverse effects of the proposed uranium exploration operation... outweigh the benefits.” SDCL §45-6D-29(3). Consequently, it is relevant evidence under South Dakota law.

Under Rule 401 of South Dakota’s rules of evidence, “Evidence is relevant if: (a) It has any tendency to make a fact more or less probable; and (b) The fact is of consequence in determining the action.” According to U.S.D. Law Professor Chris Hutton, “The philosophy of the Code of Evidence adopted in 1975 was to favor the admissibility of evidence.” Chris Hutton, *South Dakota Evidence: Comments on a Giant Step*, 59 S.D. L. REV. 343, 348 (2014).

Indeed, the South Dakota Supreme Court has stated, “Our rule favors the admissibility of evidence in the absence of strong considerations to the contrary.” *State v. Guthrie*, 627 N.W. 401, 407 (S.D. 2001). The Court interprets the relevance statute liberally. The Court has explained, “Rule 401 uses a lenient standard for relevance,” and has explicitly rejected “a narrow interpretation of relevant evidence under the rules.” *Supreme Pork, Inc. v. Master Blaster Inc.*, 746 N.W.2d 474, 487-488 (S.D. 2009).

The “Order Fall River Ordinance” takes an extremely narrow view of “applicability,” which, in and of itself, is not even an evidentiary term. To that extent, the order is not authorized by law. More to the point, the order is inconsistent with the relevancy and admissibility of evidence, as described by the Court in *Supreme Pork, Inc.*:

Rule 401 uses a lenient standard for relevance. Any proffered item that would appear to alter the possibilities of a consequential

fact is relevant... (It) is not a stringent standard. Evidence, to be relevant to an inquiry, *need not conclusively prove the ultimate fact in issue*, but only have a tendency to make the existence of any fact that is of consequence to the determination more probable or less probable...

*Id.* at 488 (emphasis in original).

Section 27 of the Uranium Exploration Act provides for local venue for contested case hearings, upon request of the county. SDCL §45-6D-27. In this case, both Fall River and Oglala Lakota counties have requested that the hearing be held in Fall River. Nevertheless, by including section 27, the legislature has determined that the views of local residents are a relevant factor in determining whether an application passes muster under section 29 of the Act. SDCL §45-6D-29. Local views are a “consequential fact,” and the Fall River County Ordinance embodies those local views.

There has been no contention that testimony relating to the ordinance is prejudicial, privileged, or unfair in any regard. It is relevant, admissible evidence. It may not be binding on the Board. *E.g. City of Custer v. Preserve French Creek*, 2024 S.D. 45 (denying writ of mandamus to close sewage plant whose operation was required by state law). The Board may or may not confer very much weight to its existence. But the Ordinance cannot be excluded on grounds of “applicability,” or claims it is “extraneous.” These are not legal reasons to exclude evidence, especially evidence this important. The “Order Fall River Ordinance” should be overruled pursuant to ARSD §74:09:01:08.

### **Applicable Rules of Interpretation Require Admission of the Ordinance**

The order is based on the notion that “exploration and mining constitute separate actions.” Order Fall River County Ordinance, p. 2. Significantly, they are *related* actions. And when different laws relate to one another, “it is the responsibility of the

court to give reasonable construction to both, and to give effect, if possible, to all provisions under consideration, construing them together.” *Meyerlink v Northwestern Public Service Co.*, 391 N.W.2d 180, 184 (S.D. 1986) citations omitted. When different statutes or ordinances are at play, under South Dakota law, the decisionmaker is not to split hairs in order to differentiate them and exclude consideration of one or the other. “If by any reasonable construction, both acts can be reconciled, they should be.” *Karlen v. Janklow*, 339 N.W.2d at 323.

The *Karlen* case is directly on point. It involves a state statute and related city ordinance. The governor sought to summarily remove three Aberdeen police officers under a state law conferring authority to remove peace officers involved in alcohol or drug-related misconduct, but a city ordinance conferred civil service protections for the officers. *Id.* The South Dakota Supreme Court vacated the governor’s dismissal of the officers, holding the state statute did not extend to municipalities with civil service ordinances. *Id.* The Court fit both laws together, “mak[ing] them workable.” *Id.*

In the present case, the legislature has indicated that local concerns are relevant to the consideration of an application for a uranium exploration permit, SDCL §45-6D-27, and, in fact, local views have been expressed in the most democratic and direct way. The Fall River County Ordinance should be considered admissible evidence, and Ms. Sarah Peterson of Hot Springs, who helped draft and campaigned for the Ordinance, *see* Exhibit A, should be allowed to testify about how and why the Ordinance was passed.

Accordingly, the Great Plains Tribal Water Alliance respectfully requests the Board to reconsider and reverse the Order Fall River Ordinance.

RESPECTFULLY SUBMITTED this 2nd day of February 2026

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**BEFORE THE STATE OF SOUTH DAKOTA**  
**DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES**  
**BOARD OF MINERALS AND ENVIRONMENT**

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1.  
IN THE MATTER OF CLEAN NUCLEAR )  
ENERGY CORP. URANIUM EXPLORATION )  
PERMIT APPLICATION )  
EXNI 453 )

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**AFFIDAVIT OF SARAH PETERSON**

I, Sarah Peterson, under penalty of perjury, hereby state and affirm:

1. I am an elder and long-time resident of Hot Springs, South Dakota. Prior to moving to Hot Springs in 2002, I lived in Wheatridge Colorado, where I volunteered with the Rocky Flats Truth Force, a citizens organization opposed to the operation of a nuclear weapons munitions facility near our community. Through that work, I learned about the extreme toxicity of radioactive materials, and the harm they pose to all living things. I had traveled to South Dakota often during those years, attending ceremonies on the Pine Ridge Reservation, and I knew that I wanted to make Hot Springs my home. My daughter graduated high school and enrolled in Fort Lewis College in 2022, and I moved from the busy metropolitan area to the beautiful and sacred Black Hills. Since that time, I have volunteered on a number of issues affecting our community, attending EPA and NRC public comment sessions and State Water and Mineral Boards hearings on the Powertech uranium mine application.

2. I intervened in this matter to continue to express my concerns with the impact of mining in my community and on our environment. As described below, part of my community



engagement on this issue was the 2022 ballot initiative declaring uranium mining a nuisance in Fall River County.

3. One of the fulfilling aspects of my volunteer work has been meeting and working with our Native American neighbors from the Pine Ridge Reservation. As such, I have been identified as a witness for the hearing in this matter for the Great Plains Tribal Water Alliance. It is my voice that Clean Nuclear Energy Corporation seeks to silence with the Motion Regarding the Applicability of the Fall River County Ordinance Declaring Uranium a Nuisance. By this Affidavit, I respectfully request that the Board of Minerals and Environment reconsider and reverse the *Order Fall River County Ordinance* entered by the Hearing Officer on December 21, 2025.

4. In May 2022, I attended a meeting with three other community members residing in Fall River County and with legal counsel, to discuss the water quality problems in local waters such as Pass Creek, Beaver Creek and the Cheyenne River, caused by run-off from legacy uranium mining and abandoned mines. We discussed writing an ordinance to stop uranium mining in Fall River County.

5. Legal counsel recommended that Fall River voters consider a similar Ballot Initiative that had been passed in Yankton County. We agreed the Citizen-initiated ordinance would be "Uranium Mining is a Nuisance in Fall River County." The campaign committee invited me to become a member at that time. That campaign committee asked our group, "It's All About the Water," to do the foot work for the campaign.

6. It's All About the Water was formed in 2012 and I became the volunteer organizer and chairperson of the group. We have worked for 14 years to prevent uranium mining in Fall River County. I set up a meeting for the campaign committee to come and inform the group about



the Ballot Initiative. Attendees were trained in the legal process for collecting names on petitions. We met every two weeks through the summer of 2022 to hand in petitions and support each other. Petition gatherers stated as soon as they explained what the petition was about, people would take the clip board out of their hands and start signing their names. When we filed the petitions by the deadline, we had 450 certified signatures, we only needed 260.

7. The campaign committee started fundraising, donation post cards were printed and mailed to all the people who signed the petitions. We received 100-yard signs “No Uranium Mining in the Black Hills” and 100 Ballot Initiative yard signs, both donated. The campaign committee put a 1/4-page ad in the local paper and weekly ads. Local radio stations broadcasted ads for the campaign.

8. It's All About the Water members posted the 200 yard signs in supportive businesses and private yards. A schedule was made up to have 2 people write a Letter to the Editor every week about the Ballot Initiative and uranium mining. Some people put more ads in the paper on their own dime. We discussed the merits of the proposed ordinance with very many neighbors and fellow residents of Fall River County.

9. Thursday, August 11, 2022 the County Commission met to accept the petitions to initiate an Ordinance declaring uranium mining a nuisance. The initiated measure was passed to the General Election ballot for November 8, 2022 election. Many of us, myself included, were in the court room during that meeting.


10. On November 8, 2022, the County Board of Canvassers in Fall River County for the General Election certified that the foregoing is a true abstract of the votes cast the jurisdiction of Fall River: **The initiated measure: Uranium Mining is a Nuisance passed 1,993 votes in favor over 1,538 opposed.**



11. On November 9<sup>th</sup> at 6:41 am, South Dakota Secretary of State Steve Barnett certified the vote on the Initiated Measure 56% yes and 44% no. We won!

12. Only three of us long time members were interested in following the election results on November 8, 2022. We were on a conference call watching and the results on the Secretary of States web site. At our next meeting I planned a large pot luck dinner to celebrate the great work we did together and our huge win.

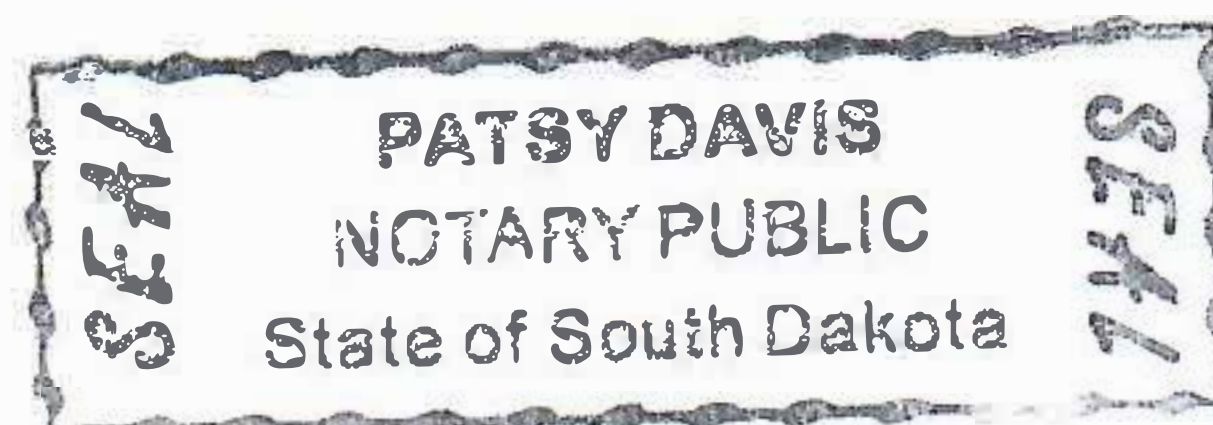
13. In considering whether to approve the CNEC application for a uranium exploration permit, I request the right to tell our story about how the voters in Fall River County have spoken.

  
Sarah Peterson

STATE OF SOUTH DAKOTA     )  
  :  
COUNTY OF FALL RIVER     )

SUBSCRIBED and SWORN to before me  
this 30 day of January, 2026

By: Patsy Davis  
NOTARY PUBLIC



My Commission Expires August 28, 2026



**From:** Neyhart, Melissa <[Melissa.Neyhart@state.sd.us](mailto:Melissa.Neyhart@state.sd.us)>  
**Sent:** Monday, December 22, 2025 1:43 PM  
**To:** Binegar, Brenda <[Brenda.Binegar@state.sd.us](mailto:Brenda.Binegar@state.sd.us)>  
**Cc:** bobmorris@westriverlaw.com; McVey, David <[David.McVey@state.sd.us](mailto:David.McVey@state.sd.us)>  
**Subject:** In the Matter of Clean Nuclear Energy Corp. Uranium Exploration Permit Application; EXNI 453

Dear Ms. Binegar:

Attached please find the Notice of Entry of Order Fall River Ordinance and Certificate of Service and the Notice of Entry of Order Denying Change of Venue and Certificate of Service that I am sending on behalf of Assistant Attorney General David M. McVey in the above matter. We are sending you the original documents via inter-office mail. We are also providing a courtesy copy of the documents to Hearing Officer Bob Morris via this email.

Melissa Neyhart, Paralegal  
Office of the Attorney General  
1302 East SD Highway 1889, Suite 1  
Pierre, South Dakota 57501-8501  
Telephone: 605-773-3215  
Facsimile: 605-773-4106

The information contained in this communication is confidential, is intended only for the use of the recipient named above, and may be legally privileged. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please resend this communication to the sender and delete the original message or any copy of it from your computer system.

STATE OF SOUTH DAKOTA



**OFFICE OF ATTORNEY GENERAL**

1302 East SD Highway 1889, Suite 1  
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Phone (605) 773-3215  
Fax (605) 773-4106  
<http://atg.sd.gov>

**MARTY J. JACKLEY**  
ATTORNEY GENERAL

**BRENT K. KEMPEMA**  
CHIEF DEPUTY

December 22, 2025

Brenda Binengar  
Department of Agriculture  
and Natural Resources  
523 East Capitol Avenue  
Pierre, SD 57501  
Email: [Brenda.Binengar@state.sd.us](mailto:Brenda.Binengar@state.sd.us)

Re: *In the Matter of Clean Nuclear Energy Corp. Uranium Exploration Permit  
Application; EXNI 453*

Dear Ms. Binengar:

Enclosed please find the original Notice of Entry of Order Fall River Ordinance and Certificate of Service and the original Notice of Entry of Order Denying Change of Venue and Certificate of Service intended for filing in the above referenced matter. True and correct copies have been sent to those individuals listed in the attached Certificate of Service.

If you have any questions, please don't hesitate to contact me.

Sincerely,

  
David M. McVey  
Assistant Attorney General

DMM/mn  
Enclosures

Via electronic mail and U.S. mail

cc/encs: Parties on Attached Certificate of Service



STATE OF SOUTH DAKOTA  
DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES

BOARD OF MINERALS AND ENVIRONMENT

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IN THE MATTER OF CLEAN NUCLEAR )  
ENERGY CORP. URANIUM )  
EXPLORATION PERMIT APPLICATION )  
EXNI 453 )  
)

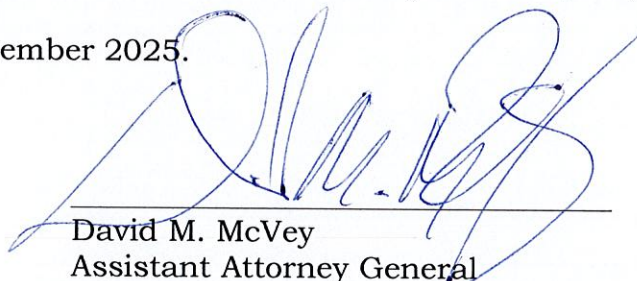
NOTICE OF ENTRY OF ORDER  
FALL RIVER ORDINANCE

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TO: ALL INTERESTED PARTIES:

Please take notice that on December 21, 2025, Hearing Officer Bob Morris entered his Order Fall River Ordinance in the above-referenced contested action. A copy of the signed Order is attached to this Notice and hereby served upon you.

Dated this 22nd day of December 2025.



David M. McVey  
Assistant Attorney General  
1302 East SD Highway 1889, Suite 1  
Pierre, South Dakota 57501-8501  
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Email: [David.McVey@state.sd.us](mailto:David.McVey@state.sd.us)  
*Counsel for the Board of Minerals and Environment*

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that the original of the NOTICE OF ENTRY OF ORDER FALL RIVER ORDINANCE was served via electronic mail and inter-office mail upon the following to be filed in the above captioned matter:

Brenda Binegar  
Department of Agriculture  
and Natural Resources  
523 East Capitol Avenue  
Pierre, SD 57501  
Email: [Brenda.Binegar@state.sd.us](mailto:Brenda.Binegar@state.sd.us)  
*Secretary, Board of Minerals & Environment*

Further, the undersigned certifies that true and correct copies of the above referenced document(s) were served via United States Mail, First Class, Postage Prepaid, upon the following:

Steven R. Blair  
General Counsel  
221 Mall Drive, Suite 201  
P.O. Box 6221  
Rapid City, SD 57709  
*Counsel for Department of Agriculture &  
Natural Resources Minerals, Mining &  
Superfund Program*

Seth Eagle Bear Jr.  
P.O. Box 44  
Wounded Knee, SD 57794

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Cheryl Angel  
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Sarah Peterson  
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Elizabeth Lone Eagle  
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Ailine Maea  
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Beverly Larson  
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Wounded Knee, SD 57794

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Hot Springs, SD 57747

Cheyenne River Sioux Tribe  
Kimberly Craven, Attorney General  
P.O. Box 590  
Eagle Butte, SD 57625

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P.O. Box 271  
Pine Ridge, SD 57770

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*Counsel for Great Plains Tribal Water Alliance, Inc.*

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Eugene, OR 97440  
*Counsel for Great Plains Tribal Water Alliance, Inc.*

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Susan Hey  
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Rapid City, SD 57702

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George Nelson  
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Reno L. Red Cloud  
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Pine Ridge, SD 57770

Gena Parkhurst  
514 Americas Way #20805  
Box Elder, SD 57719

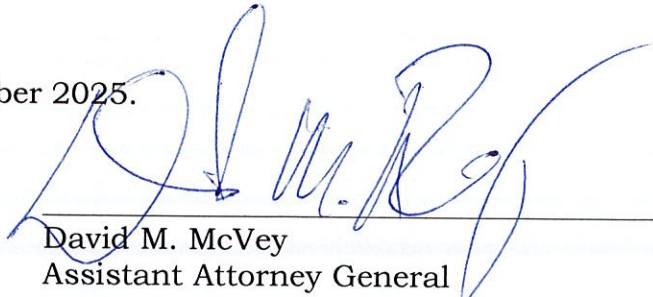
Tonya Stands  
202 Bald Eagle Lane #8  
Rapid City, SD 57701

Steven Gunn  
Oglala Sioux Tribe  
Oglala Sioux Tribe Legal Department  
P.O. Box 1204  
Pine Ridge, SD 57770

Courtesy copies of the above referenced document were served via electronic  
mail upon the following:

Bob Morris, Hearing Officer  
704 7th Avenue, Suite 2  
P.O. Box 370  
Belle Fourche, SD 57717  
bobmorris@westriverlaw.com

Dated this 22nd day of December 2025.



David M. McVey  
Assistant Attorney General

STATE OF SOUTH DAKOTA  
DEPARTMENT OF AGRICULTURE & NATURAL RESOURCES  
BOARD OF MINERALS AND ENVIRONMENT

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IN THE MATTER OF CLEAN	)	
NUCLEAR ENERGY CORP.	)	
URANIUM EXPLORATION PERMIT	)	ORDER
APPLICATION	)	FALL RIVER ORDINANCE
	)	
EXNI 453	)	
	)	
	)	

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**In response to motions regarding the applicability of Ordinance declaring uranium mining a nuisance in Fall River County, the Board hereby finds:**

Prior to August 11, 2022, citizens of Fall River County obtained signatures for a County Initiative Petition for a proposed ordinance in the following form: URANIUM MINING IS A NUISANCE IN FALL RIVER COUNTY.

On August 11, 2022, the Fall River County Commission voted to submit the petition to a vote pursuant to SDCL 7-18A-13. A vote on the initiated measure was held in the General Election on November 8, 2022. The measure was passed by the majority of voters. On November 10, 2022, the County Board of Canvassers certified the votes for the measure. On November 15, 2022, the State Board of Canvassers certified the votes for the measure.

SDCL § 45-6B-3(11) defines "Mining operation" as

[T]he development or extraction of a mineral from its natural occurrence on affected land. The term includes surface mining and surface operations, in situ mining, the reprocessing of tailings piles the disposal of refuse from underground mining, milling and processing located on the land described in the application for a mining permit, and stand-alone milling and processing facilities utilizing chemical or biological leaching

agents. *The term does not include* extraction of sand, gravel, or rock to be crushed and used in construction, *exploration activities*, bulk sampling, the exploration and extraction of natural petroleum in a liquid or gaseous state by means of wells or pipe, borrow excavation for embankments, or the extraction of geothermal resources.

(emphasis added)

SDCL § 45-6D-3(10) defines "Uranium exploration operation" as

[T]he act of searching for or investigating a uranium deposit, including sinking shafts, tunneling, drilling test holes, digging pits, or cuts or other works for the purpose of extracting samples, including bulk samples, *before commencement of development or extraction operations* and test facilities to prove the commercial grade of a uranium deposit. The term does not include those activities which cause very little or no surface disturbance, such as airborne surveys and photographs, use of instruments or devices which are hand carried or otherwise transported over the surface to make magnetic, radioactive, or other tests and measurements, boundary or claim surveying, location work, annual assessment work required to maintain the validity of a mineral claim or any other work which causes no greater land disturbance than is caused by ordinary lawful use of the land by persons not exploring for uranium deposits.

(emphasis added)


Pursuant to these provisions, mining and exploration constitute separate actions.

The Fall River County ordinance declaring uranium mining a nuisance in Fall River County is extraneous to the application under issue and the Board will not recognize the ordinance as applicable.

Dated this 21st day of December, 2025.

**BOARD OF MINERALS & ENVIRONMENT**

By:



\_\_\_\_\_  
Bob Morris, Hearing Officer

STATE OF SOUTH DAKOTA  
DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES

BOARD OF MINERALS AND ENVIRONMENT

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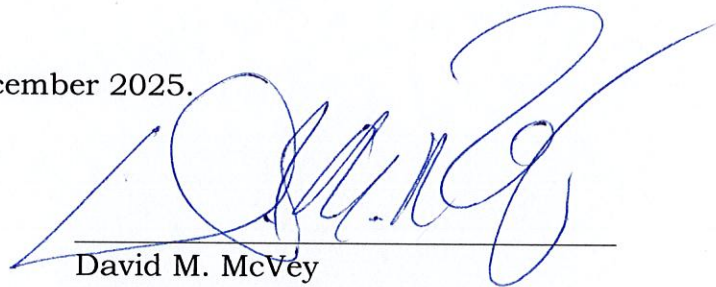
IN THE MATTER OF CLEAN NUCLEAR )	
ENERGY CORP. URANIUM )	
EXPLORATION PERMIT APPLICATION )	NOTICE OF ENTRY OF ORDER
	DENYING CHANGE OF VENUE
EXNI 453 )	
)	

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TO: ALL INTERESTED PARTIES:

Please take notice that on December 21, 2025, Hearing Officer Bob Morris entered his Order Denying Change of Venue in the above-referenced contested action. A copy of the signed Order is attached to this Notice and hereby served upon you.

Dated this 22nd day of December 2025.



David M. McVey  
Assistant Attorney General  
1302 East SD Highway 1889, Suite 1  
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## CERTIFICATE OF SERVICE

The undersigned hereby certifies that the original of the NOTICE OF ENTRY OF ORDER DENYING CHANGE OF VENUE was served via electronic mail and inter-office mail upon the following to be filed in the above captioned matter:

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Further, the undersigned certifies that true and correct copies of the above referenced document(s) were served via United States Mail, First Class, Postage Prepaid, upon the following:

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Courtesy copies of the above referenced document were served via electronic  
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Bob Morris, Hearing Officer  
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Dated this 22nd day of December 2025.



David M. McVey  
Assistant Attorney General



STATE OF SOUTH DAKOTA  
DEPARTMENT OF AGRICULTURE & NATURAL RESOURCES  
BOARD OF MINERALS AND ENVIRONMENT

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IN THE MATTER OF CLEAN NUCLEAR )  
ENERGY CORP. URANIUM )  
EXPLORATION PERMIT APPLICATION )

EXNI 453 )  
)  
)  
)  
)

ORDER  
DENYING CHANGE OF VENUE

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This Board has received numerous motions and requests from intervenors to move the location of venue for this matter to either Hot Springs, the Pine Ridge Indian Reservation, or Rapid City, South Dakota. In addition, the Fall River County Commission sent a letter dated October 15, 2025, requesting a change of venue to Hot Spring or other venue in Western South Dakota.

**In response to these motions and to the Fall River Commission letter, the Board hereby finds:**

SDCL 45-6D-27 provides:

The board of county commissioners of a county containing affected land may request that the hearing on the application for a uranium exploration operation permit be held in that county. Such request *shall* be filed with the Board of Minerals and Environment not more than twenty days after the date of last publication of notice pursuant to § 45-6D-12. Such request *shall* contain the reason for requesting the hearing and the location where the hearing is to be held. The Board of county commissioners *shall* pay travel and per diem costs as established by state statute or rule to the boards staff if the request designates the hearing at a location other than Pierre. [emphasis added].


SDCL 45-6D-27 requires that the request that the hearing be held in Fall River County, “.... *shall* be filed with the Board ... not more than twenty days after the date of last publication of notice pursuant to § 45-6D-12. ....” SDCL 2-14-2.1(2) provides the term “shall” manifests a mandatory directive and does not confer any discretion in carrying out the action so directed.” The Fall River Commission letter was sent to the Board long after the date of last publication of the notice as per SDCL 45-6D-12.

The Fall River County Commission's request to change venue is therefore denied. In addition, all other requests to change the venue of the hearing on EXNI 453 from Pierre to another location is denied.

Dated this **21st** day of December, 2025

**BOARD OF MINERALS & ENVIRONMENT**

By:

  
\_\_\_\_\_  
Bob Morris, Hearing Officer

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this day, a copy of the afore was served via U.S. mail with proper postage affixed to:

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DATED this 2nd day of February 2026

*Peter Capossela*