

IN THE UNITED STATES COURT
OF FEDERAL CLAIMS

Case Nos. 03-2684L and 01-568L

Sheldon Peter Wolfchild, *et al.*,

Plaintiffs,

vs.

United States,

Defendant.

***WOLFCHILD* PLAINTIFFS OPPOSITION TO FILING OF *AMICUS CURIAE*
MOTION AND FILED MEMORANDUM OF SHAKOPEE MDEWAKANTON
SIOUX COMMUNITY AND PRAIRIE ISLAND INDIAN COMMUNITY'S
OPPOSITION TO PLAINTIFFS' CROSS-MOTION FOR PARTIAL- SUMMARY
JUDGMENT**

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The *Wolfchild* Plaintiffs object to the filing of Shakopee Mdewakanton Sioux Community and Prairie Island Indian Community's motion and *filed* memorandum in opposition to Plaintiffs' cross-motion for partial-summary judgment on two grounds. First, counsel for SMSC and Prairie Island violated this Court's decision of December 2005 concerning the filing of an *amicus curiae* memorandum:

Any person or entity seeking to file briefs or memoranda as an *amicus* in this case in the future must specifically seek leave from the court to do so at least 21 days in advance of the filing of the papers....¹

The documents received by *Wolfchild* counsel reflect that the SMSC and Prairie Island Community's filed an *amicus curiae* memorandum and appendix on September 22, 2010 (as documents 785-1 and 785-2). Although their motion appears timely (filed on September 22, 2010 as document 785), this Court has not yet rendered a decision on *that motion* whether to grant permission for the *amici* to file any memorandum or appendix.

This is important based on Plaintiffs' second reason for their objection to SMSC's participation as an *amicus curiae* (and thus, Prairie Island) as detailed in the Plaintiffs filed Motion to Enjoin and for Miscellaneous Relief. Upon seeking the Oglala Sioux Tribe continuing support through an *amicus curiae* filing,² it came to *Wolfchild* counsel's attention that the President of the Shakopee Mdewakanton Sioux Community, Stanley Crooks, offered the Oglala Sioux Tribe \$1 million for a

¹ *Wolfchild v. United States*, 68 Fed. Cl. 779, 799 (Fed. Cl. 2005).

² The Oglala Sioux Tribe had filed an *amicus curiae* brief supporting the *Wolfchild* Plaintiffs Petition for a Writ of Certiorari before the U.S. Supreme Court in December 2009.

development project *if* it rescinded the original Oglala resolution that supported the *Wolfchild* Petitioners granting the Oglala attorney permission to file an *amicus curiae* brief in support of the *Wolfchild* U.S. Supreme Court Petition. An Oglala Sioux Tribal committee — the Economic and Business Development Committee — with whom Mr. Crooks had direct contact, voted for the Tribal Council to consider the rescission in exchange for the \$1 million “offer.”

SMSC’s actions effectively eviscerated any opportunity for the *Wolfchild* Plaintiffs to obtain the support of the Oglala Sioux Tribe for an *amicus curiae* filing. The SMSC’s actions caused Plaintiffs to file a Motion to Enjoin and for Miscellaneous Relief — a motion now before this Court.

As *Wolfchild* Plaintiffs explain in their Motion to Enjoin, it is ironic that SMSC seeks to join the judicial and legal process it has otherwise interfered with as Plaintiffs allege. Regardless, as one type of relief Plaintiffs seek among several — including attorney fees and costs — is for this Court to deny any motion and thus any filing of SMSC (inclusive of Prairie Island) of an *amicus curiae* memorandum.

Based on SMSC’s conduct in the instant proceedings, *Wolfchild* Plaintiffs object to the motion of *amici curiae* SMSC and Prairie Island’s motion for leave to file a memorandum in opposition to Plaintiffs’ cross-motion for partial-summary judgment. Plaintiffs’ counsel also reiterate that a hearing be held regarding their Motion to Enjoin.

September 22, 2010.

/s/ Erick G. Kaardal
Erick G. Kaardal