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Oil-Dri urged government intervention in Nevada mine

RENO, Nev. (AP) - The world's largest maker of cat litter solicited Interior Secretary Gale Norton to seek reversal of Washoe County's denial of a clay mine and cat litter plant near Reno.

Chicago-based Oil-Dri Corp. urged Norton to intervene in the company's suit against the county to protect the federal government's authority to regulate mining on public lands, the Reno Gazette-Journal reported Tuesday, citing a letter written by Robert Vetere, the company's former general counsel.

The Aug. 21 letter to the secretary of the interior was among documents obtained by the newspaper under a Freedom of Information Act request.

Tom Myers of Great Basin Mine Watch, a primary critic of Oil-Dri's mining plans, said the company's appeals to the government led to a legal brief filed in federal court by the Justice Department that contends the county overstepped its authority in rejecting the project.

Myers said the documents also suggest a cozy relationship between the Interior Department and the mining industry.

"To me, it shows just how close the industry is with the Norton Department of Interior," Myers said. "It shows they are snuggling with the industry."

Bob Abbey, Nevada director for the Bureau of Land Management, agreed Oil-Dri's requests likely led to the government's involvement in the case. But he denied the government is siding with the mining company.

Documents show Oil-Dri's lawyers and officials from the Interior Department and BLM engaged in a series of written and verbal communications from July through November last year regarding the company's lawsuit and the possibility of federal intervention.

"We believe that an intervention by the Justice Department would send a clear signal to both the mining industry and to local governments that the federal government is willing to defend its jurisdiction over federal lands," Vetere wrote in his letter to Norton.

The government ultimately decided against full intervention on Oil-Dri's behalf but did file a "friend of the court" brief Nov. 27 in

U.S. District Court in Reno.

Oil-Dri sought to mine clay from two open pits on federal land in Hungry Valley north of Reno. The ore would have been processed into cat litter and other absorbent materials in a processing plant on adjoining private land.

Amid widespread opposition by the Reno-Sparks Indian Colony, other residents and environmentalists, a special-use permit for the clay mine and plant was denied Feb. 26, 2002, by the Washoe County Commission. The BLM then withdrew its approval.

Oil-Dri subsequently sued, contending the county illegally denied the project and violated mining rights protected under the 1872 Mining Law. Letters to Norton and other Interior Department officials argued dangerous precedent could be set if Oil-Dri does not prevail in its lawsuit.

"Such a precedent would enable local governments, by ad hoc 'environmental' regulation, to ban mining upon public lands within their jurisdictions, thereby thwarting the will of Congress as expressed in the Mining Law of 1872," Oil-Dri counsel Earl Hill of Reno wrote in an Aug. 19 letter

A Nov. 18 letter from Department of the Interior Solicitor William G. Myers III to Arlan Melendez, chairman of the Reno-Sparks Indian Colony, cited a "vital interest" in ensuring regulation of federal lands is not unreasonably usurped by local government. The letter was sent shortly before the government filed its brief.

Vetere, who has resigned as Oil-Dri's general counsel but continues to be paid as a consultant on the Reno project, said the government's brief "hits on the exact points it needed to."

Although his letter stated the case could set dangerous precedent with regard to control of federal land, Vetere said he doubts the litigation will prove key to the political future of the 1872 Mining Law.

"This isn't why the 1872 Mining Law is going to be rewritten," Vetere said. "Cat litter on federal land? It's not going to be enough."