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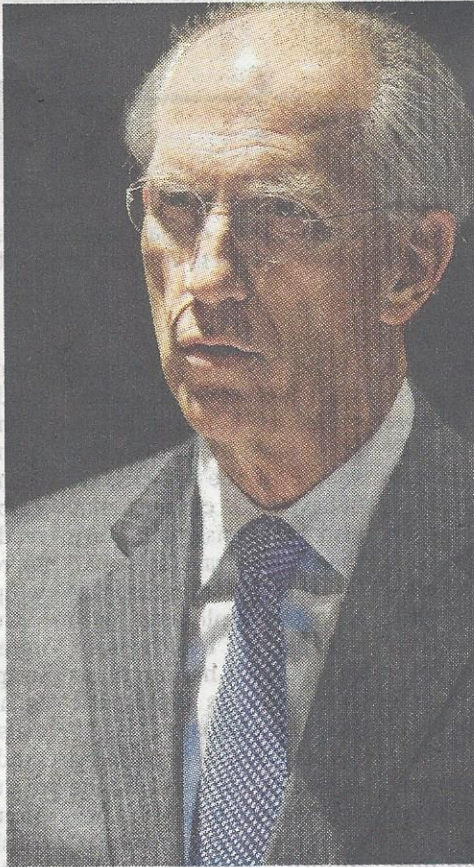
WHITECLAY BEER STORES STAY CLOSED

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“Today’s decision affords an opportunity to write a hopeful chapter in the story of Whiteclay”

Doug Peterson, Nebraska Attorney General

Supreme Court rules against store owners

Unanimous decision cites flaw in appeal

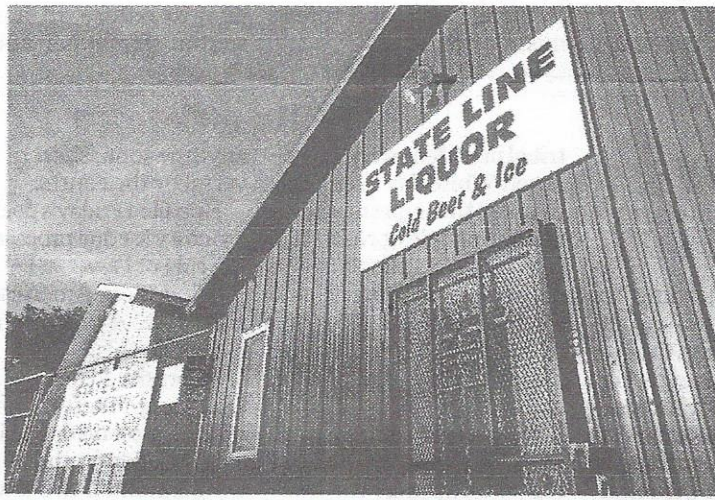
ZACH PLUHACEK and LORI PILGER
Lincoln Journal Star

Nebraska's highest court handed opponents of Whiteclay alcohol sales a resounding victory Friday, all but guaranteeing the village's four embattled beer stores will remain closed.

In a unanimous decision, the Nebraska Supreme Court rejected the store owners' bid to reopen, citing a technical flaw in their appeal.

The stores, which were forced to close in April, had for decades served millions of cans of beer each year to the Oglala Lakota people of South Dakota's nearby Pine Ridge Indian Reservation, where alcohol is banned.

Friday's decision ranks with the 1876 Battle of Little Bighorn as one of the most significant wins ever for the Lakota people, said Frank LaMere, a Winnebago activist who had sought the end of Whiteclay beer sales for 20 years.



FRANCIS GARDLER, JOURNAL STAR FILE PHOTO

State Line Liquor was one of four beer-only Nebraska stores in Whiteclay that closed on April 30. It will remain closed after Friday's Supreme Court decision.

"Today will be a red-letter day in Oglala Lakota history," LaMere said.

The court's 17-page opinion did not weigh in on the issues of rampant alcoholism on Pine Ridge or lawlessness in Whiteclay itself.

Instead, the justices deter-

mined that a fatal legal flaw had doomed the beer store owners' appeal of the Nebraska Liquor Control Commission's decision to deny their liquor licenses earlier this year.

"Our decision today does not address the merits of the parties'

respective positions, but rests solely on jurisdictional grounds," Justice John Wright wrote in the opinion.

The court agreed with Dave Domina, attorney for Sheridan County residents opposing the stores, who argued the store owners hadn't correctly appealed to the court because they didn't include his clients in the case.

As a result, a Lincoln judge's order reversing the Liquor Commission's decision was void, Wright wrote.

Andrew Snyder, attorney for the beer stores, did not return phone messages Friday.

The owners of the four stores — Arrowhead Inn, State Line Liquor, D&S Pioneer Service and Jumping Eagle Inn — either couldn't be reached or declined to comment.

"We are exploring our options," said Clay Brehmer, co-owner of State Line Liquor, in an email.

Domina said the case topped any he's handled in his prominent career, which included multiple

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murder trials, leading the investigation into Commonwealth Savings Co. that resulted in the resignation of then-Nebraska Attorney General Paul Douglas in 1984, and prosecuting the impeachment of University of Nebraska Regent David Hergert in 2006.

Even his \$1.28 billion jury verdict in a price-fixing case against Tyson Foods, which was later overturned by a judge, doesn't compare, Domina said.

"That one was about money. This was about people.

"Today's Nebraska Supreme Court decision means that the shame of Whiteclay is over," he said. "It also means huge rocks have been removed from the road to recovery for many of the Oglala Lakota Sioux Nation and the Pine Ridge Reservation."

Bryan Brewer, a formal

tribal president who has opposed Whiteclay beer sales, thanked the Supreme Court and the people of Nebraska.

"The Lakota people, we've never won anything. This is a major victory for us — kind of our first big win," Brewer said. "We are very pleased up here.

"We're very happy with their decision, and hopefully we can start the healing process for our people, especially our children."

It is unclear whether the beer stores will make another bid to reopen.

They could seek a rehearing by the Nebraska Supreme Court, or ask the U.S. Supreme Court to review the decision. The stores could also sue the state in federal court.

Another option would be to apply for new liquor licenses, then appeal once more if the licenses aren't granted.

Bob Batt, the state Liquor Commission chairman, said there's "zero" chance the commission will allow beer sales to resume in Whiteclay

anytime soon, short of a reversal by the courts.

He called Friday's decision a victory for due process and the rule of law.

"God Bless America," he said. "We've brought some closure to this."

Nebraska Attorney General Doug Peterson, whose office represented the Liquor Commission in the appeal, complimented two lawyers on his staff, Solicitor General Jim Smith and Assistant Attorney General Milissa Johnson-Wiles, for their work.

"Today's decision affords an opportunity to write a hopeful chapter in the story of Whiteclay," Peterson said in a news release.

A task force led by two state senators, Patty Pansing Brooks of Lincoln and Tom Brewer of Gordon, has already begun drawing up plans for new business development and human services in Whiteclay. The task force is visiting the area this weekend for a series of meetings.

"Streets once plagued with public intoxication,

vagrancy, assaults, rape, and unsolved murder are now peaceful," Sen. Brewer said Friday. "The drain on Sheridan County emergency services and law enforcement is a fraction of what it once was. The healing of a town once called 'The Skid Row of the Plains' has started."

LaMere said he was "elated" by Friday's decision, but considered it inevitable given the recent momentum Whiteclay opponents have experienced.

He called for a day of "healing and reconciliation" on the Sunday before Thanksgiving, asking people to offer prayers of thanks and to seek forgiveness for allowing Whiteclay to "devastate the people for so long."

"Prayers must be said for ourselves," LaMere said.

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