

FILED

FEB 24 2006

Western Energy Co.
P.O. Box 99
Castle Rock Road
Colstrip, MT 59323
406-748-5116

OFFICE OF
WORKERS' COMPENSATION JUDGE
HELENA, MONTANA

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

WCC NO. 2000-0222

ROBERT FLYNN

Petitioner

vs.

MONTANA STATE FUND

Respondent/Insurer.

AFFIDAVIT

STATE OF MONTANA)
County of ROSEBUD)

¶1 I, MARVIN I. KRON JR., being first duly sworn upon oath, depose and say:

¶2 I, MARVIN I. KRON JR., am the Rosebud Mine Safety Manager of Western Energy Company.

¶3 In my capacity as Rosebud Mine Safety Manager, I am authorized to make the statements set forth in this affidavit on behalf of Western Energy Company and to bind Western Energy Company by these statements.

¶4 After a review of our records by counsel retained for that purpose, I swear under oath that Western Energy Company should be dismissed from the above-entitled action for the following reason:

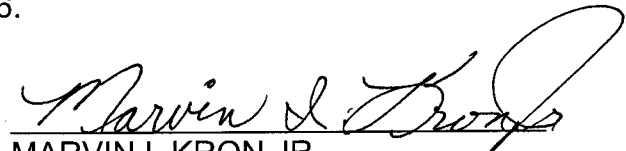
- Western Energy Company has no claimants meeting the Court's criteria in this matter as set forth in the summons.

¶5 I understand that the Montana Workers' Compensation Court may allow a period of up to 90 days from the date of filing this affidavit within which Petitioner's counsel may conduct discovery and investigation for the limited purposes of proving or

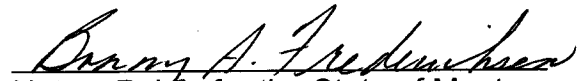
disproving the foregoing statement made by me on behalf of Western Energy Company. After such 90 days, if no objection is lodged by the Petitioner's counsel, the Court will dismiss the insurer/self-insurer from this action based on the sworn statement made by me in this affidavit.

¶6 I declare under penalty of perjury that the foregoing is correct.

DATED this 20th day of February 2006.


MARVIN I. KRON JR
ROSEBUD MINE SAFETY MANAGER

Signed and sworn to before me this 20 day of February 2006.


Notary Public for the State of Montana
Residing at: Colstrip Mt

[SEAL]

My Commission Expires: April 11, 2007



WESTERN ENERGY COMPANY

A Westmoreland Mining LLC Company

P.O. BOX 99 • COLSTRIP, MT 59323

(406) 748-5100

February 20, 2006

Clerk
Montana Workers' Compensation Court
P.O. Box 537
Helena, Montana 59624-0537

Re: Robert Flynn v. Montana State Fund
WCC No. 2000-0222

Dear Clerk:

Enclosed on behalf of Western Energy Company is my affidavit in the form established by the Court.

If you need anything else from us, please let me know.

Sincerely,

Marvin I. Kron, Jr.
Rosebud Mine Safety Manager

cc: Rex Palmer, Esquire (with enclosure)
(Attorneys Inc., P.C., 301 W. Spruce, Missoula, MT 59802)