

Taylor Gunhammer
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ATTN:
Steve Kozel, District Ranger
Northern Hills Ranger District, Black Hills National Forest (BHNF)

Greetings Ranger Kozel,

My name is Taylor Gunhammer. I am an enrolled member of the Oglala Sioux Tribe and an authorized representative of NDN Collective. I'm writing to submit my formal objection to the Golden Crest Exploration Drilling Project proposed by Solitario Resources, and I am objecting individually as well as in my capacity as an organizer with NDN Collective. In addition to providing analysis of the project itself, my objection will include issues with the public comment process that have unfairly skewed public discourse surrounding the project in a way which denies equal access and representation to Tribal citizens and Tribal governments who hold inalienable Treaty rights to the entirety of the Black Hills.

Of the many and varied reasons why I object to this project, first among them is that it represents a blatant violation of the inherent sovereign rights held by the Great Sioux Nation and guaranteed under U.S. law by the 1851 Treaty of

Ft. Laramie and the 1868 Treaty of Fort Laramie. As per Article VI of the U.S. Constitution, treaties with Tribal nations are to be understood as “the Supreme Law of The Land.” There is no mechanism by which the land management purview of the U.S. Forest Service can rightfully supersede the treaty claim of Oceti Sakowin people to the “absolute and undisturbed use and occupation” of the Black Hills. The U.S. Supreme Court acknowledged in 1980 that the Black Hills were stolen from the Great Sioux Nation outright, and approving this project would be a massive step backwards in the process of delivering justice to the Tribal nations and members who are the long-suffering victims of that theft.

I cannot in good conscience refrain from expressing that the concept of Tribal consultation has been woefully underserved by this project throughout its entire existence. Sending letters to impacted Tribes and simply hoping they arrive is, frankly, a shocking display of bad faith on the part of BBNF, especially in the context of an official federal process. Additionally, this terrible practice violates the prerogative of enrolled Tribal members like myself to invoke our inherent treaty rights individually. *Wyoming v. Herrera* has established that an individual member of a federally recognized Tribe can exercise the treaty powers guaranteed to their Tribal government by law without any need to serve as an official governmental representative of that Tribe.

The Forest Service’s recent issuance of a FONSI (Finding of No Significant Impact) regarding the Golden Crest Project is unequivocally an error in process that can only be corrected by the enactment of a “No Action” alternative to the proposed project. The White House Council on Environmental Quality has issued Executive mandates that hold Indigenous Traditional Ecological Knowledge (ITEK or TEK) as the guiding framework for mitigating and surviving the impacts of climate change. Neither Solitario Resources or USFS have taken a single action in the course of this permitting process that can be construed as an effort

to honor such a mandate. As Lakota people we have held the knowledge for thousands of years that subterranean caves and subsurface waterways are closely interconnected in the Black Hills. A proposal consisting of 25 drill pads, some of them featuring multi-directional angled drilling at the same sites, from an average of 1,300 feet to a maximum of 1,640 feet deep, cannot reasonably be understood to have no significant impact on a subsurface hydrology that is largely unstudied by Western science. The theoretical presumption that underground water in the Black Hills is fractionated and totally separate runs exactly counter to our TEK and relies on an overwhelming dearth of Western subsurface hydrological knowledge in the central Black Hills. Tribal sovereignty and treaty rights are not subject to the best guesses of individuals with far less intellectual basis than the holders of TEK. More scientific study, *without* an unethical and illegal focus on and prioritization of facilitating mineral extraction on treaty lands, using LIHEAP and LIDAR technologies that are capable of data retrieval without soil and resource disturbance, is not only necessary to an ethical and well-reasoned platform of land management, it is long overdue.

Another deep, significant flaw in the public comment process surrounding Golden Crest is the choice of USFS to schedule the final day of this public comment period to coincide with “unavoidable” system maintenance that prevents the submission of comments during critical final hours that are well-known to be the most submission-heavy stretch of time in any comment period. The claim that this occurred because it’s not possible to alter the times at which system maintenance happens is spurious at best and malicious at worst. While perhaps it is not possible for USFS to alter the times when system maintenance occurs, it is *absolutely* possible to avoid scheduling comment periods themselves at the same times. The fact that, in this case, USFS has chosen neither to schedule the comment period appropriately or remedy the avoidable loss of access to the public at such a crucial time suggests an

intentionality that has by now compromised public trust in the entire process. The appearance of impropriety surrounding this facet of the Golden Crest proposal, it must be said, is stark and palpable.

Finally, one of the most substantial errors in the public comment process which has negatively impacted not only this project but many others before it is the apparent USFS “policy” of flagging for removal from the public reading room any comments that mention treaties, Tribal sovereignty, or even just Tribes or treaties at all. The explanation I received for this was provided by Chris Stores, Natural Resources Planner, who stated that the practice is based on the supposition that comments mentioning treaties or Tribes may contain “sensitive tribal information” that the USFS wishes to “protect.”

There are two main reasons this supposition is erroneous and a clear act of bad faith. Firstly, there is absolutely nothing confidential or classified about mentioning Tribal treaty rights, Indigenous rights, or inherent Tribal sovereignty - each of these concepts has been documented and detailed at length in numerous publicly available documents, and nothing about discussing them compromises their substance in any way. Secondly, this filtering mechanism creates an egregious harm to both Tribal citizens and the entire general public by denying them access to the most relevant information about the impacts of proposed mining projects. How can USFS make a claim of seeking the “free, prior, and informed consent” of any community while shuffling as much of the Tribal perspective out of view as it possibly can? There is no valid reason to attempt to silence Indigenous input, and that is exactly what has been happening with every proposed project that is subject to USFS oversight for years. I am hereby demanding that you cease this discriminatory and unconstitutional practice henceforth. Should you refuse to do so, you will be electing to further

compromise the integrity of an official government land management function, placing the agency well outside its ethical and legal bounds.

In summary, I wish to restate my formal objection to the Golden Crest Exploratory Drilling Project in its entirety based on the above-mentioned grounds. As an enrolled member of the Oglala Sioux Tribe and a representative of NDN Collective, it is my duty to inform you that this project violates my inherent right to the “absolute and undisturbed use and occupation” of the Black Hills as per the 1868 Treaty of Fort Laramie and has no legitimate basis in law. The only acceptable plan of operation for this project is a “No Action” alternative to the proposal, and I fully expect USFS to render exactly that determination in accordance with the U.S. Constitution. Also, for obvious reasons, I expect to see this objection in the public reading room and will be following up to make sure that happens. Thank you for your consideration.

Respectfully,

Taylor Gunhammer
Local Organizer, NDN Collective