



# Oglala Sioux Tribe

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Office the President  
Frank Star Comes Out

October 28, 2024

Deb Haaland, Secretary  
U.S. Department of the Interior  
1849 C Street, N.W.  
Washington, D.C. 20240

Randy Moore, Forest Service Chief  
U.S. Department of Agriculture  
1400 Independence Avenue, S.W.  
Washington, D.C. 20250-0003

Tom Vilsak, Secretary  
U.S. Department of Agriculture  
1400 Independence Ave., S.W.  
Washington, DC 20250

Shawn Cochran, Forest Supervisor  
Black Hills National Forest  
Forest Supervisor's Office  
1019 N. 5th Street  
Custer, SD 57730

Tracy Stone-Manning, Director  
Bureau of Land Management  
U.S. Department of the Interior  
1849 C Street, N.W.  
Washington, D.C. 20240

**Re: Proposed Withdrawal of National Forest Service Lands in the Black Hills from Mining and Other Forms of Entry, Appropriation, and Disposal under the Public Land Laws, Mining Laws, and Mineral and Geothermal Leasing Laws**

Dear Secretary Haaland, Secretary Vilsak, Bureau of Land Management Director Stone-Manning, Forest Service Chief Moore, and Black Hills National Forest Supervisor Cochran:

The Oglala Sioux Tribe supports the Forest Services' proposed withdrawal of approximately 20,574 acres of lands administered by the Black Hills National Forest Service in Pennington County, South Dakota, from mining and other forms of entry, appropriation, and disposal under the public land laws, mining laws, and mineral and geothermal leasing laws of the United States. We ask that the withdrawal be expanded to include all lands in the Black Hills National Forest.

## Background

The Oglala Sioux Tribe is a signatory to the Fort Laramie Treaties of 1851 and 1868 and a constituent tribe of the Great Sioux Nation, referred to in our *Lakota* language as the *Oceti Sakowin*, which means Seven Council Fires. In the Fort Laramie Treaty of 1868, the *Oceti Sakowin* reserved to itself the territory known as the Great Sioux Reservation, a tract of land including the sacred Black Hills, which we refer to as *Pahá Sápa* or *He Sapa* in *Lakota*. The United States promised

that this territory would be “set apart for the absolute and undisturbed use and occupation” of the *Oceti Sakowin* as a “permanent home.” See Fort Laramie Treaty of 1868, arts. II, VII. The United States also promised in the Treaty that war shall “forever cease” with the *Oceti Sakowin*. See Fort Laramie Treaty of 1868, art. 1.

The United States broke the treaty when it invaded our lands and waged war against our people. After the defeat of the United States and the Seventh Cavalry at the Battle of Little Bighorn in June 1876, Congress attached a “Sell or Starve” rider to the Indian Appropriations Act of 1876, 19 Stat. 176, which cut off rations to our people in an attempt to coerce us into selling the Black Hills. Yet, we stood firm, and the United States was unable to secure our consent to the sale of the Black Hills. We said then—and we have repeated for generations—that the Black Hills are not for sale.

In the Act of February 28, 1877, 19 Stat. 254, the United States stole the Black Hills and other lands from the *Oceti Sakowin*. The United States Supreme Court acknowledged the illegality of the taking of the Black Hills in the case of *U.S. v. Sioux Nation*, 448 U.S. 371 (1980). In that case, the Supreme Court held that the Sioux Nation was entitled to compensation for the taking of the Black Hills. The Oglala Sioux Tribe and other tribes of the Sioux Nation have not accepted the compensation awarded for the Black Hills, insisting to this day that the United States stole the Black Hills and that it should return the Black Hills.

The Black Hills are sacred to our people. We consider the Black Hills or, as we call them, *Pahá Sápa*, to be “the heart of everything that is.” We are committed, now and forever, to protecting the Black Hills and preserving our claim to our sacred lands. To that end, several of our Sioux tribes purchased the sacred lands known as *Pe’ Sla* in the heart of the Black Hills. The United States approved an application made by the tribes to take our sacred *Pe’ Sla* lands into trust. The tribes intend to keep the lands in their original and natural state, reintroducing buffalo and other natural species, and preserving the area for traditional cultural and religious ceremonies.

The tribes of the *Oceti Sakowin* repeatedly have called upon the United States to return federal lands in the Black Hills, yet for over 40 years, the United States has not acted to provide justice for the *Oceti Sakowin* in respect to the Black Hills.

### **Opposition to Mining in the Black Hills**

The Oglala Sioux Tribe is opposed to all mineral exploration and development in the Black Hills that would infringe on our rights under the Fort Laramie Treaties of 1851 and 1868 and other federal laws, including the National Historic Preservation Act (“NHPA”) and the National Environmental Policy Act (“NEPA”). Specifically, and without limitation, the Oglala Sioux Tribe is opposed to any exploration or development of minerals in the Black Hills that would:

- Harm our sacred Black Hills, including the sacred site known as *Pe’ Sla*, and our traditional, cultural, and religious use of those lands; or
- Harm archeological, historical, cultural, and sacred sites in the Black Hills; or
- Harm the land, water, air, natural resources, and fish and wildlife in the Black Hills.

The Oglala Sioux Tribe consistently has opposed environmentally destructive mineral exploration and development projects in the Black Hills, including but not limited to the proposed Dewey-Burdock *in situ* uranium mine, the proposed Mineral Mountain Resources Rochford exploration project, the proposed F3 Gold Jenny Gulch exploration project, and the proposed F3 Gold Newark exploration project.

The Oglala Sioux Tribe also consistently has asserted that the United States should recognize that the Black Hills are not within the scope of the General Mining Act of 1872 and remove the Black Hills from all federal mining and mineral leasing laws. The *Oceti Sakowin* never consented or agreed to mining in *Pahá Sápa*.

The Oglala Sioux Tribe is pleased that the Forest Service has proposed to withdraw approximately 20,574 acres of lands administered by the Black Hills National Forest Service in Pennington County, South Dakota, from mining and other forms of entry, appropriation, and disposal under the public land laws, mining laws, and mineral and geothermal leasing laws of the United States. We support the proposed withdrawal and ask that it be expanded to include all lands in the Black Hills National Forest.

As discussed below, the proposed withdraw protects treaty rights, sacred sites, archaeological, historical, cultural, and religious resources, and the environment. It also marks an important step forward in the nation-to-nation relationship between the United States and the tribes of the *Oceti Sakowin*, including the Oglala Sioux Tribe.

### **Protection of Tribal Treaty Rights**

The Oglala Sioux Tribe has treaty rights to land, water, fish, wildlife, and other natural, cultural, and other resources in the Black Hills, and mineral exploration and development in the Black Hills threatens those rights. For example, past mineral development in the Black Hills has resulted in significant contamination of water resources in the Black Hills, and such contamination infringes on our reserved, unextinguished right to fish in the Black Hills.

Approval of the proposed withdrawal would show respect for the Fort Laramie Treaties of 1851 and 1868, and it would protect against future violations of our treaty rights. This is consistent with the Biden Administration's November 2021 Memorandum of Understanding Regarding Interagency Coordination and Collaboration for the Protection of Tribal Treaty and Reserved Rights, which was signed by Interior Secretary Haaland and Agriculture Secretary Vilsak, among others. That MOU affirmed the government's "commitment to protect tribal treaty rights, reserved rights and similar tribal rights to natural and cultural resources" and "to demonstrate that commitment through early consideration of treaty and reserved rights in agency decision-making."

The proposed withdrawal is also consistent with the November 2021 Joint Secretarial Order on Fulfilling the Trust Responsibility to Indian Tribes in the Stewardship of Federal Lands and Waters, which was signed by Secretaries Haaland and Vilsak. The order encourages the Departments to "make agreements with Indian Tribes to collaborate in the co-stewardship of Federal lands and waters under the Departments' jurisdiction." The order states that the Departments "will engage affected Indian Tribes in meaningful consultation at the earliest phases of planning and decision-

making relating to the management of Federal lands to ensure that Tribes can shape the direction of management,” and “will collaborate with Indian Tribes to ensure that Tribal governments play an integral role in decision making related to the management of Federal lands and waters through consultation, capacity building, and other means.” The proposed withdrawal will allow the Departments to honor these commitments by engaging in meaningful co-stewardship of lands and waters in the Black Hills without mineral exploration or development.

### **Protection of Sacred Sites**

*Pahá Sápa* and *Pe’ Sla* are sacred sites. The proposed withdrawal would prevent significant adverse impacts to these sacred sites caused by mineral exploration and development in the Black Hills.

Our sacred lands at *Pe’ Sla* are located less than ten miles from the proposed withdrawal area. The withdrawal will help prevent pollution of the surface water and groundwater at and around *Pe’ Sla*. Such contamination would make *Pe’ Sla* unholy. The withdrawal will also prevent other pollution, noise, and disturbances caused by mineral exploration and development activities.

Protecting sacred sites from these harms is consistent with the Biden Administration’s November 2021 Memorandum of Understanding Regarding Interagency Coordination and Collaboration for the Protection of Indigenous Sacred Sites, which was signed by Secretaries Haaland and Vilsak, among others. That MOU affirmed the USDA’s “commitment to improve the protection of ... Indigenous sacred sites” and “to demonstrate their commitment through the early consideration of the protection and access to Indigenous sacred sites in agency decision-making.” Protecting sacred sites is also consistent with Executive Order 13007 (May 24, 1996).

### **Protection of Archaeological, Historical, Cultural, and Religious Resources**

Mineral exploration and development in the Black Hills threatens to cause irreparable harm to archeological, historical, cultural, and religious resources. The protection of these resources is a value enshrined in the NHPA, Executive Order 13007 (May 24, 1996), and other laws.

Approval of the proposed withdrawal will protect *Lakota* archaeological, historical, cultural, and religious resources in the proposed withdrawal area, as well as the free exercise of our *Lakota* religion in *Pahá Sápa*. Allowing mining activities to occur anywhere in *Pahá Sápa*, but in particular so close to one of our sacred lands at *Pe’ Sla*, poses a continuous and cumulative threat to our cultural, religious, medicinal, and ceremonial practices, and should therefore be prevented by approving the mineral withdrawal.

### **Protection of the Environment**

The proposed withdrawal is critical for the protection of land, water, air, natural resources, fish, and wildlife in *Pahá Sápa*, and it will have a significant beneficial impact on the environment. Past mining activities in *Pahá Sápa* have had devastating impacts on the environment, causing extraordinary harms to the land, water, natural resources, and fish and wildlife in the Black Hills, including surface lands, subsurface structures, water, threatened and endangered species, and other natural resources. We cannot allow this to happen again.

The significance and immediacy of the potential harms to the environment, including the land, water and air, from mining activities in the proposed withdrawal area require the withdrawal to be approved immediately upon completion of the Environmental Assessment (“EA”) process under NEPA. The proposed mineral withdrawal will prevent environmental harms, not cause them, so an Environmental Impact Statement (“EIS”) on the proposed withdrawal is not necessary. We support the Finding of No Significant Impact (“FONSI”).

**Conclusion**

For all of these reasons, we urge the Bureau of Land Management to approve the proposed mineral withdrawal and to expand the withdrawal to include all of the Black Hills National Forest.

Sincerely,

A handwritten signature in black ink, appearing to read "Frank Star Comes Out". The signature is fluid and cursive, written over a light gray rectangular background.

Frank Star Comes Out, President  
Oglala Sioux Tribe