



Norbeck Society
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James Gubbels, District Ranger
Jonathon Manning, Project Leader
Thawney Stottler, District Resource Planner
Mystic Ranger District, Black Hills National Forest
8221 South Mt. Rushmore Road, Rapid City, SD 57702
Submitted via <https://cara.fs2c.usda.gov/Public/CommentInput?Project=67838>

May 15, 2025

Re: Pete Lien & Sons Rochford Mineral Exploratory Drilling Project #67838

Dear Ranger Gubbels, Leader Manning, and Planner Stottler,

As part of our advocacy for sustainable use of public lands, Norbeck Society comments reflect a desire to support a management approach for the Black Hills National Forest that recognizes the imperative of protecting and enhancing the biocomplexity of forest ecosystems that serve and support growing numbers of people. A vision for long-term sustainability of all aspects of this land is paramount.

The Norbeck Society wishes to ensure that benefits flow perpetually to those who come after us. People in the future will rely on the graces of the Black Hills National Forest just as we do.

On the following pages, please find our comments on the Pete Lien & Sons Rochford Mineral Exploratory Drilling Project. We request that these be included in the Forest Service Administrative project files.

As always, we appreciate the opportunity to provide input to the USFS about the management of the Black Hills National Forest.

Sincerely,

Mary Zimmerman, President
On behalf of the Norbeck Society
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cc: Shawn Cochran, Wendy Schuyler

Norbeck Society Comments
Pete Lien and Sons Rochford Mineral
Exploratory Drilling Project #67838 (the project)
Mystic Ranger District, Black Hills National Forest
May 15, 2025

[Black Hills National Forest | Project Summary \(#67838\) | Forest Service](#)

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Norbeck Society Introductory Statement

Thank you for the opportunity to respond to a request to provide comments on the Pete Lien and Sons Rochford Mineral Exploratory Drilling Project (67838) project, letter dated April 9, 2025.

We do note three important points about this project:

1. mining is a highly volatile and visceral project to local communities and we are keeping this in mind as we provide reasoned comments; and
2. we understand that this project is only “exploratory as it related to mining, yet is challenging not to see the connectedness to full extractive mining operations that is likely to occur on the heels of the completion of exploratory drilling.

3. When considering our and others' comments, please do not give any extra weight to the 1872 Mining Law over any other law. There is no hierarchy in laws. Laws need to be complied with. As you are aware, we have shared numerous other laws that you must comply with and that are not currently being complied with – comply with the law(s).

NEPA - Purpose & Need

At this point of the process, it is not clear what the purpose and need is for this project. Typically, the purpose & need for proposing an action is determined by comparing the objectives and desired conditions in the Black Hills Land and Resource Management Plan (Forest Plan) to the existing conditions, and in this case responding to a proponent's request. These proposals are still required to be in compliance with the Forest Plan.

We look forward to seeing that written in the next iteration for our review and comment per Forest Service Handbook 1909.15 (11.21) – Purpose and Need.

The need for action discusses the relationship between the desired condition and the existing condition in order to answer the question, “why consider taking any action?”

The breadth or narrowness of the need for action has a substantial influence on the scope of the subsequent analysis. A well-defined “need” or “purpose and need” statement narrows the range of alternatives that may need to be considered. For example, a statement like “there is a need for more developed recreation” would lead to a very broad analysis and consideration of many different types of recreation. However, a statement like “there is a need for more developed campsites along Clear Creek” would result in a more focused analysis with consideration of a much narrower range of alternatives.

“Purpose” and “need” may be discussed separately, but normally they are discussed as one because the purpose of an action will be to respond to the stated need.

It is critical that the responsible official and interdisciplinary team members all understand and agree on the need for action. An informed decision can only be made when everyone is working together to solve the same problem.

Plan of Operations (PoO)

There are two clarities we are seeking from the proponent's submission: 1) when did the proponent submit their Notice of Intent and 2) when was the Plan of Operation signed.

Unfortunately, the PoO provided as part of the scoping is not signed. We are not experts in agency policy but one would assume that there must be some “finalized” PoO that is “accepted” before NEPA analysis begins and then of course the “final” PoO before mining operations, or in this case exploratory activities commence. An unsigned PoO going into NEPA could be a little hard to keep track of or to refer to. If a PoO is not signed prior to NEPA then at least denoting in the signature block that this is the PoO that is serving as the Proposed Action would be beneficial, because since the NOI to this PoO you have worked with the proponent to assure compliance with Forest Plan, law regulation and policy. Clearly you would not move anything forward into NEPA that does not comply with law, regulation, and policy.

We look forward to seeing that written in the next iteration for our review and comment per Code of Federal Regulations 36 CFR Part 228, Subpart A – Locatable Minerals.

228.4 Plan of Operations – notice of intent – requirements.

228.5 Plan of operations – approval

Reclamation Bond

On page 14 and 15 of the Plan of Operation (PoO) the proponent appears to allude to the need for a bond. It is hard to tell if the agency followed up and agreed with that or established some initial estimate that should be documented in this area. Again, this PoO is not signed and so it is difficult to be clear if this is the latest PoO that the NEPA will be based upon.

In Code of Federal Regulations and the agencies policies, it states clearly that “Any operator required to file a plan of operations shall, when required by the authorized officer, furnish a bond conditioned upon compliance with 228.8(g), prior to approval of such plan of operations.”

In addition, according to Forest Service Manual (FSM) direction (FSM 6561.3) bonds are required to cover the cost of reclamation described in the plan of operation. “Bonds are required to cover the estimated reclamation costs for prospecting, mining and other mineral operations on National Forest System Lands.” In determining the amount of the bond, consideration will be given to the estimated cost of stabilizing, rehabilitating, and reclaiming the area of operations.”

The Forest Service and BLM have the authority to bond for Plans of Operation (not Notices of Intent) to cover the cost of required reclamation on NFS lands, if a bond is necessary to ensure

performance of reclamation and mitigation measures because of the impacts. The bond serves as an extra assurance that corrective actions will take place if the mining operator does not perform duties as agreed to in the PoO or the operator defaults or dissolves itself. Because an operator can walk away does not mean that our natural resources and public lands should suffer, and that the American tax payer foots that bill. A bond of the right monetary amount helps to provide some assurance. We expect to see a proposal for the bond or the factors that will contribute to bond calculation.

Water Quality

On page 13 of the Plan of Operation (PoO), the proponent appears to allude to committing to the act of “capping” the exploratory drill holes. As you move further into analysis, our concern lies with the potential and dire impacts of ground water contamination. Although one could perceive that oil & gas contamination of groundwater via drill holes may be much more likely – the risk is high with this project. The risk is felt to be high in the area where there has been historic mining, specifically gold mining, along with soils that have high levels of naturally occurring arsenic. The concern for acid mine drainage is a real threat to our ground water, in an area where a significant portion of drinking water is sourced from ground water – the case in the project area.

Ultimately the discussion around drill hole capping is critical to protecting our groundwater from self-imposed actions, like this project, that can expose our ground water to contaminants like arsenic and the possibility for acid mine drainage.

NEPA – Cumulative Effects

On page two of the scoping letter, you are informing us that your preliminary assessment is that “this proposal falls within a category of actions listed in regulations 36 CFR 220.6 that are excluded from documentation in an EA or EIS and that no known extraordinary circumstances exist that would preclude use of this category. Specifically, this project falls under 36 CFR 220.6(e)(8), which categorically excludes mineral investigation that will not exceed a one-year period.” On page 4 of the PoO, the proponent does divulge that they feel this will take less than one-year. We can understand the Forest Service decision maker arriving at the use of the CE for this project, however this decision revokes our ability to provide truly substantive comments with the added opportunity to object if warranted.

We prefer that you error on the side of being realistic. That would then lead you to the right level of NEPA, meaning that we can have the most optimistic perspective on how long it could take for a project that is proposing 18 drill holes (~1.5 per month to complete in one year). These would require completing at least 1.5 drill holes per month in the project area that is likely to include seasonal restrictions for TES as well as periods of harsh winter conditions. It would make more sense to be realistic in the ability to accomplish this work and to also provide us our full opportunity to be involved in this project by moving this to a “simple” EA.

A simple on-line search resulted in at least one acknowledgement of over-optimism in the likelihood of a project like this being completed in less than a year: “Case Studies: Real-Life Examples of Drilling Time.” It states *“To provide a better understanding of the time it takes to drill a well, let’s take a look at some real-life case studies. These examples will shed light on the range of drilling times and the factors that influenced them.”*

Case Study 1: In a hilly region with rocky terrain, a community needed to drill a deep well to access a reliable water source. The drilling process took several months due to the challenging geological conditions. Specialized drilling equipment and techniques were required to penetrate the hard rock formations, which significantly extended the drilling time.

Case Study 2: In a rural area with soft soil and a shallow water table, a homeowner decided to drill a dug well for their property. With the help of a small excavation team, the well was completed within two weeks. The relatively short drilling time was mainly attributed to the favorable soil conditions and the shallow depth of the water table.

Case Study 3: In a coastal area with sandy soil, a resort hotel decided to invest in a drilled well to ensure a sustainable water supply. The drilling process took approximately three weeks, with the majority of the time spent on securing the well casing and addressing potential issues related to the presence of saltwater intrusion.

Please do not forgo our ability to be actively involved in this important project based upon extreme over-optimism. We expect this topic to be monitored, including when the “official” clock starts the one-year time frame. Logically one would infer that the first movement of equipment under the signed PoO, supported by the NEPA decision, could be considered the initiation of that “one year or less” time frame.

NEPA - Reasonably Foreseeable Future

Although we recognize the distinction of “exploration” versus “mining” operations it is difficult to truly separate the two. Typically, a successful and long-standing business-like Pete Lien & Sons is unlikely to invest money into exploration if it does not have the chance to yield something. This suggests that there is more than a fighter’s chance that there could be some deposits worth mining. For that reason, we will be eager to review and comment on the next opportunity as you speak to the Cumulative Effects of this project, meaning the “reasonably foreseeable future” and the reasonable likelihood of this project becoming a mining project proposal.

We look forward to seeing that written in the next iteration for our review and comment per Forest Service Handbook 1909.15 (15.1) – Cumulative Effects

For the definition of “cumulative effects” and other terms (see zero code, section 05). Individual actions when considered alone may not have a significant impact on the quality of the human environment. Groups of actions may have collective or cumulative impacts that are significant. Cumulative effects must be considered and analyzed without regard to land ownership boundaries or who proposes the actions. Consideration must be given to the incremental effects of the action when added to the past, present, and reasonably foreseeable related future actions of the Forest Service, as well as those of other agencies and individuals, that may have a measurable and meaningful impact on particular resources.

Threatened, Endangered & Sensitive Species (TES)

The Forest Service will need to evaluate and disclose how sensitive species in the area may be impacted by the road construction and drilling activities. The species of greatest concern is the American Goshawk, a species already heavily and negatively impacted by the large conversions of mature habitat to younger structural stage habitat. There is a tipping point for the American Goshawk, and this does bring into question the possibility of a project like this being that tipping point for the species. The noise, light, vehicle traffic, human presence/disturbance, and habitat fragmentation associated with the mining exploration activities threaten to disturb and displace wildlife or even cause nest abandonment to TES, specifically American Goshawk. We look forward to seeing this disclosure in the next opportunity for our review and comment.

Monitoring

On page 14 of the PoO, the proponent commits to monitoring in the form of field inspections for reclamation effectiveness, noxious weed infestations for three years, and stating that reports will be compiled at the end of each field season and provided to the US Forest Service, which of course would make these records available to the public. Assuming this project is approved, we request those be uploaded and made available on the forest website as there is high social interest in all mining projects.

In the Forest Service Handbook 1909.12 (30.5) – Projects, Activities, and Monitoring. Project monitoring is a valuable means of understanding the effects of projects and activities. Project monitoring can provide useful information to adapt future project plans to improve resource protection and restoration. Project and activity monitoring may be used to gather information for the plan monitoring program, and plan monitoring information may inform the development of specific projects and activities. However, the Responsible Official has the discretion to strategically select which projects to monitor and the monitoring questions related to those projects that will best inform the monitoring program, test assumptions, track changing conditions, or evaluate management effectiveness.

We look forward to seeing at least an outline of monitoring that will occur for this project in the next iteration for our review and comment.

Conclusion

The decision by the Forest Service to utilize CE (36 CFR 220.6€(8), which categorically excludes mineral investigations that will not exceed a one-year period seems to violate NEPA’s “hard look” requirement and forgoes our active engagement and opportunity to consider objecting, as warranted. A “hard look” would

1. examine potentially significant impacts of the approved exploration activities upon sensitive species and their habitats;
2. examine groundwater, and surface water and riparian areas; and
3. disclose that the project’s potential impacts are “significant” within the meaning 40 C.F.R. § 1508.27(b), and therefore requires at least a “simple EA.”