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Submitted via <https://cara.fs2c.usda.gov/Public//Commentinput?Project=67838>

May 16, 2025

U.S. Forest Service
Mystic District Ranger Office
8220 Mt. Rushmore Road
Rapid City, South Dakota 57702

RE: Comments on the Pete Lien and Sons Rocheford Mineral Exploratory Drilling Project

Dear Ms. Colosimo and Ms. Wong:

I serve as Chairman of the Board of Directors of the Great Plains Tribal Water Alliance, Inc. The Tribal Water Alliance is chartered for the purposes of protecting the water rights of the Great Plains Tribes, reserved in our Treaties with the United States, and for advising the Great Plains Tribal Chairman's Association on projects and policies affecting our water. The Board of Directors is comprised of representatives from the Standing Rock, Rosebud, Oglala, Lower Brule, Cheyenne River, Yankton and Flandreau Santee Sioux Tribes. I write on behalf of the Board, to comment on proposed categorical exclusion for the Rocheford Mineral Exploratory Drilling Project.

Our comments focus on the following:

- The proposed project affects Treaty lands of the *Oceti Sakowin Oyate* and the Great Plains Tribes, and we do not consent.
- The Forest Service failed to engage in requisite Nation-to-Nation consultation with the affected Treaty Tribes.

- The proposed project is immediately adjacent to *Pe' Sla*, a sacred site to the Lakota on land held in trust by the United State for the Shakopee Mdewakanton, Standing Rock, Rosebud and Crow Creek Sioux Tribes.
- As the project will impact Indian trust land, an environmental impact statement is required under the National Environmental Policy Act.
- The potential impacts to surface water and the artesian aquifer mandate denial by the Forest Service of the proposed permit.

The Rocheford Mineral Exploratory Drilling Project Violates the 1851 and 1868 Fort Laramie Treaties

The Tribes comprising the Tribal Water Alliance are signatories to the 1851 Fort Laramie Treaty, 11 Stat. 749 and 1868 Fort Laramie Treaty, 15 Stat. 635. Under Article 5 of the 1851 Fort Laramie Treaty, the Tribes of the Great Plains Tribal Water Alliance reserved title to lands that include the Black Hills, and encompass the site of the proposed Uranium exploration, as follows:

The territory of the Sioux or Decotah Nation, commencing at the mouth of the White Earth River on the Missouri River: thence in a southwesterly direction to the forks of the Platte River; thence up the north fork of the Platte River to a point known as the Red Butte, or where the road leaves the river; thence along the mountain range known as the Black Hills, to the headwaters of the Heart River; thence down Heart River to its mouth and thence down the Missouri River to the place of beginning. 11 Stat. 749.

Article 2 of the 1868 Fort Laramie Treaty established the Great Sioux Reservation, encompassing all of present-day South Dakota from the east bank of the Missouri River to the Wyoming border, including the site of the proposed drilling. 15 Stat. 638. Executive Order 13175 requires all agencies, including the USFS, to respect Treaty rights when making decisions such as whether to approve the Rocheford Mineral Exploratory Drilling Project: “Agencies shall respect Indian tribal self-government and sovereignty (and) honor treaty rights...” (65 Fed. Reg. 67259, Nov. 9, 2000). Consequently, the consent of the signatories to the 1868 Fort Laramie Treaty must be required. The application must be denied.

Forest Service Failed to Engage in Nation-to-Nation Consultation with the Treaty Tribes

It should be further noted that consultation is a Treaty right for the Great Plains Tribes, who are signatories to the Fort Laramie Treaty of 1868. 15 Stat. 635. Article 5 establishes Tribal consultation as a Treaty right. It states in part:

The United States agrees that the agent for said Indians shall... (conduct) prompt and diligent inquiry into such matters of complaint by and against the Indians as may be presented for investigation under the provisions of their Treaty stipulations.

15 Stat. 636.

The framework for Nation-to-Nation consultation is prescribed by Executive Order 13175 on *Consultation and Coordination with Indian Tribal Governments*. 65 Fed. Reg. 67249. The relevant section states in part:

The United States continues work with Indian tribes on a government-to-government basis to address issues concerning Indian tribal self-government, tribal trust resources (and) Indian tribal treaty rights... Each agency shall have an accountable process to ensure meaningful and timely input by tribal officials in the development of regulatory policies...

65 Fed. Reg. 67250.

The Rocheford project clearly affects the Treaty rights of the Great Plains Tribes. Accordingly, the USFS is obligated to comply with the requirements for “meaningful and timely input” by Tribal Nations on the proposed Rocheford drilling. The failure to do so is a fatal flaw in the Forest Service process.

The Proposed Project is Immediately Adjacent to *Pe' Sla*

The *Pe' Sla* tract next to the proposed drill site is a Lakota sacred site. Mdewakanton Sioux, Standing Rock Sioux, Rosebud Sioux and Crow Creek Sioux Tribes. The Forest Service has failed to comply with Executive Order 13007 on Indian Sacred Sites. 61 Fed. Reg. 26771 (May 29, 1996). Section 2 of E.O. 13007 states:

Each executive branch agency with statutory or administrative responsibility for the management of Federal lands shall, as appropriate, promptly implement... procedures to ensure reasonable notice is provided of proposed activities or land management policies that may restrict future access to or ceremonial use of, or adversely affect the physical integrity of, sacred sites.

Id.

Pe Sla is a historical ceremonial site in which the Lakota celebrated and prayed as the stars aligned with certain formations in the Black Hills. The ceremonies took place at designated times of the year, per the constellations. As described by Pete Catches, Sr., the prominent ceremonial leader of the Oglala Sioux Tribe:

Every spirit we know comes from the Black Hills, that is why it is the center of the universe. That is why it is sacred to us. In this life and the life hereafter; the two are together... We cannot sell the spirit. Generation after generation, our people have looked at the Black Hills as the heart of

everything that is, the center of the world. It is a circle, we begin from there and we make a complete circle of life, and we go here after our demise from this world. That is why the Black Hills is sacred to us.

Pete Catches Sr., Presentation, Oglala Lakota College (1992), archived by Michael Her Many Horses.

In order to re-engage in the sacred ceremonies performed at Pe Sla, it must retain its pristine state. The Rocheford Mineral Exploratory Drilling Project jeopardizes this. In light of the Treaty right to engage in ceremony, and the dictates of E.O. 13007, the Pete Lien and Sons application must be denied.

In 2015, the Standing Rock, Rosebud, Shakopee Mdewakanton and Crow Creek Sioux Tribes purchased approximately 2,000 acres at the *Pe' Sla* site. Standing Rock and Rosebud are represented on the Board of Directors of the Great Plains Tribal Water Alliance. In 2016, the Secretary of the Interior placed the land in trust status. The federal nexus established by Indian trust status mandates a higher level of NEPA compliance than a categorical exclusion. The current process violates the National Environmental Policy Act. The fact that the project is temporary is simply not determinative. The USFS should conduct an environmental impact statement prior to any approval of the Rocheford Mineral Exploratory Drilling Project.

Impacts to Surface and Groundwater Could be Significant

The area overlays significant aquifers and shall groundwater resources, as well as the South Fork of Rapid Creek, Castle Creek and other intermittent waters could be adversely affected by the proposed exploration. The potential impacts of exploration and of mining in this area necessitate further evaluation. The application for the Rocheford Mineral Exploratory Drilling Project should be denied, pending further study under NEPA.

Thank you for considering the comments of the Great Plains Tribal Water Alliance, Inc. We would appreciate your serious consideration of our concerns.

Sincerely,



Erroll "Doug" Crow Ghost, Jr.,
Chairman, Board of Directors

Cc: Gay Kingman, Executive Director
Great Plains Tribal Chairmen's Association