**Comment on Project #67838 – Pete Lien & Sons Rochford Mineral Exploratory Drilling**  
Submitted by: Ihanktonwan Dakota Oyate Treaty Commitee

Date: May 16, 2025

To the Mystic Ranger District and U.S. Forest Service,

Brave Heart Society states this plainly: we know exactly what’s happening here, and the attempt to pass off exploratory graphite drilling near Pe’ Sla under a Categorical Exclusion (CE) is either the result of willful ignorance or deliberate procedural sleight of hand. Neither is acceptable.

This project is proposed in a high-elevation, hydrologically sensitive area located near the headwaters of Rapid Creek, a critical drinking water source for communities downstream. The site features steep gradients, shallow soils prone to erosion, and fractured Precambrian bedrock that facilitates complex, often unpredictable subsurface water movement. These are not static systems. Water flows through joints, faults, and old root channels, often connecting surface activities with aquifers far more quickly than standard models predict. The ecology of the area is tightly coupled to this hydrology, supporting riparian communities that are adapted to specific timing and volume of flows.

Disturbances near headwaters carry amplified effects throughout the watershed due to what is known in hydrology as the "headwater effect", the principle that ecological and chemical disruptions near the source can cascade downstream, often with greater intensity than similar impacts in lower reaches. This is a direct consequence of longitudinal connectivity, the natural movement of water, nutrients, organisms, and energy through a watershed. Any alteration to infiltration rates, water temperature, or seasonal discharge patterns in this sensitive zone risks initiating downstream consequences that are difficult to predict and nearly impossible to reverse. Anyone with even a basic understanding of montane watershed function should recognize that exploratory drilling, even when described as low-impact or “non-invasive,” carries an outsized risk of ecological disruption, particularly in terrain where the landscape itself refuses to be simplified into neat regulatory boxes.

**Ecological Risk**

The assertion that this project qualifies for a Categorical Exclusion under 36 CFR 220.6(e)(8) is both procedurally reckless and ecologically indefensible. It disregards a host of interrelated red flags that, individually and cumulatively, demand comprehensive environmental scrutiny.

The proposed drill pads are situated within recognized wildlife movement corridors, which serve as essential conduits for species dispersal, genetic exchange, and seasonal migration. These areas are functionally irreplaceable for maintaining metapopulation dynamics and biodiversity resilience. Disrupting these corridors with industrial activity introduces edge effects and permeability barriers that can lead to habitat compression, increased interspecific conflict, and population bottlenecks for sensitive or obligate species.

The anticipated acoustic disturbance, photopollution, fugitive dust emissions, and heavy machinery traffic will exacerbate habitat fragmentation, disturb circadian rhythms, and elevate physiological stress indicators in fauna. These stressors are known to alter species behavior, reduce reproductive success, and impair predator-prey dynamics, particularly in taxa already operating on narrow ecological thresholds.

The threat to groundwater integrity is substantial and under-characterized. Graphite exploration commonly employs synthetic drilling fluids, chemical lubricants, and pressurized water injection. When used in high-gradient, fault-fractured geological substrates like those in the Black Hills, such inputs present a high likelihood of contaminant transport through preferential flow paths. The risk of vertical and lateral migration into shallow aquifers is amplified by the area's hydrogeologic complexity and the absence of long-term baseline water quality monitoring. Once contamination occurs in these systems, remediation is either cost-prohibitive or technically infeasible due to the heterogeneous nature of the substrate and the difficulty of isolating contaminant plumes in karst-like bedrock matrices.

Taken together, these factors clearly exceed the threshold of "no significant impact" required for a Categorical Exclusion. Proceeding without a full Environmental Impact Statement not only violates ecological due diligence, it signals a failure to integrate even the most elementary principles of landscape ecology, wildlife biology, and groundwater science into land management decisions.

**Legal and Cultural Oversight**

Equally egregious is the procedural failure to engage in substantive tribal consultation. This project is sited adjacent to *Pe’ Sla*, a ceremonial and cultural keystone site recognized across the *Oceti Sakowin* Nation. The area lies within unceded treaty territory as delineated in the 1851 and 1868 Fort Laramie Treaties, legal instruments that have not been nullified but rather systematically ignored. The Black Hills were seized in direct violation of those treaties through the 1877 Act, a maneuver the United States Supreme Court has acknowledged as unlawful. That is not distant history. That is an ongoing breach of both legal precedent and moral accountability.

The United States Forest Service holds a fiduciary trust obligation to Tribal Nations, a responsibility that extends beyond superficial outreach or the issuance of perfunctory notification letters. Genuine government-to-government consultation requires iterative dialogue, recognition of traditional governance systems, and the incorporation of Indigenous legal frameworks and spiritual knowledge into the planning process. It is not a box to check. It is a legal and ethical imperative.

Attempting to categorically exclude *Pe’ Sla* and the associated cultural impacts from your environmental analysis is not only a dereliction of this duty, it reflects a fundamental misunderstanding of federal obligations under both the National Environmental Policy Act (NEPA) and the National Historic Preservation Act (NHPA). The exclusion of sacred sites from formal review mechanisms violates the spirit and letter of both statutes and reveals a bureaucratic strategy that prioritizes procedural expediency over Indigenous rights and ecological integrity. You cannot manage sacred ground like surplus timber inventory. That is not how NEPA works. That is not how NHPA works. And it is certainly not how trust responsibility works.

**A Pattern Worth Naming**

This project does not exist in a vacuum. It is one more node in a deeply cynical pattern of regulatory disaggregation unfolding across the Black Hills, where exploratory permits are approved incrementally, each one cloaked in the language of minimal impact, until a full-scale industrial operation emerges with the blessing of cumulative institutional shrugging. The agencies involved act as if the larger trajectory is unknowable, as if they cannot connect the regulatory dots they themselves are drawing. This is not administrative naïveté. It is strategic obfuscation.

Let us be clear: this is death by a thousand permits. It is a calculated, iterative erosion of environmental oversight, where piecewise approval enables project sponsors to evade meaningful cumulative impact review. This is not some benign failure of foresight. It is a pattern of environmental permitting that weaponizes fragmentation to avoid accountability. And everyone paying attention can see it.

This model of permitting by accretion undermines the integrity of NEPA, renders public participation performative, and deepens distrust in federal land management. It functions as a loophole for extractive industry, not as a protective measure for the land or the people who hold it sacred.

In this case, that pattern has brought the drill bit to the doorstep of *Pe’ Sla*, a site of immense cultural, spiritual, and ecological importance that has been prayed over, cared for, and protected by Indigenous Nations since time immemorial. That this place now finds itself in the crosshairs of graphite speculation speaks volumes about the moral and procedural failures of this permitting system.

**In Summary**

This letter is not just about halting one drill rig. It is about indicting the entire decision-making framework that allowed this proposal to make it this far without meaningful scrutiny. Your Categorical Exclusion process is not just misapplied—it is a blunt instrument being wielded to bypass accountability. Your environmental review is anemic, fragmented, and blind to the cumulative damage already being done across this region. Your tribal consultation process is not consultation. It is a box-checking formality that treats sovereign Nations and traditional societies as afterthoughts. And your assumptions about “low-impact” geology reveal a profound and embarrassing ignorance of how watersheds, headwater systems, and fractured bedrock work.

You are not protecting the land. You are not honoring treaties. You are not listening. And we are done pretending otherwise.

So let us be absolutely clear: you have a legal, ethical, and moral obligation to act like stewards of the public trust, not enablers of short-term extraction.

Here is what you need to do if you want to begin repairing even a shred of credibility:

1. Cancel the Categorical Exclusion immediately.
2. Initiate a full Environmental Impact Statement with transparent public engagement.
3. Conduct actual, good-faith consultation, with elected tribal governments, traditional societies, spiritual authorities, and community knowledge-holders.
4. Rebuild your permitting process from the ground up to prevent extractive industry from using fragmentation, obfuscation, and regulatory drift as a way to force through industrial projects on sacred and ecologically critical lands.

We’ve seen what happens when agencies claim neutrality in the face of extraction. Neutrality, in cases like this, is complicity.

Sincerely,

Ihanktonwan Dakota Oyate Treaty Committee

Lake Andes, South Dakota  
May 16, 2025