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<https://cara.fs2c.usda.gov/Public/CommentInput?Project=64551>

July 21, 2025

Re: Ponderosa Exploration Drilling Project #64551

Dear Ranger Champa and Planner Stores,

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 Ponderosa Exploration 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  
**Ponderosa Exploration Drilling Project #64551** (the project)  
Northern Hills Ranger District, Black Hills National Forest (the forest)  
July 21, 2025

**Table of Contents**

<b>Norbeck Society Introductory Statement .....</b>	<b>2</b>
<b>National Environmental Policy Act (NEPA) - Purpose &amp; Need .....</b>	<b>3</b>
<b>NEPA – Proposed Action .....</b>	<b>5</b>
<b>Categorical Exclusions – Extraordinary Circumstances .....</b>	<b>9</b>
<b>Plan of Operations (PoO) .....</b>	<b>10</b>
<b>Reclamation Bond .....</b>	<b>11</b>
<b>Water Quality .....</b>	<b>11</b>
<b>NEPA – Cumulative Effects .....</b>	<b>12</b>
<b>NEPA - Reasonably Foreseeable Future .....</b>	<b>13</b>
<b>Threatened, Endangered &amp; Sensitive Species (TE&amp;S).....</b>	<b>14</b>
<b>Monitoring .....</b>	<b>14</b>
<b>Conclusion .....</b>	<b>15</b>

**Norbeck Society Introductory Statement**

Thank you for the opportunity to respond to a request to provide comments on the Ponderosa Exploration Drilling Project (64551), letter dated June 20, 2025. We note three important points about this project:

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

3. When considering our comments or those of others, please do not give any extra weight to the 1872 Mining Law over any other law. There is no hierarchy in laws; laws are laws that need to be complied with. As you are well aware, we have recently shared numerous other laws, regulations, and policies with which the Black Hills National Forest appears to be noncompliant.

### **NEPA - Purpose & Need**

At this point in the process, it is not clear what the Purpose and Need is for this project, other than to simply state it is a “right.” 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 your own 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.*

## **Mining on Federal Lands as the Purpose & Need**

We understand that exploration and extraction rights are at the core of mineral rights ownership. These rights are typically exercised through leases or permits which grant authority for activities below the surface. We also understand that environmental regulations require impact assessments, before operations begin, to mitigate harm to ecosystems. Balancing extraction rights with surface rights demands careful legal consideration.

On page 1 of the scoping letter, you mention this “right” specifically: “Solitario possesses legal mining claims in this area and, under the General Mining Law of 1872, **has a right** to explore for sub-surface minerals on those claims. The US Forest Service (USFS) must consider this plan of operations and determine the potential environmental impacts of the proposed action.” Ultimately, the Federal Government **maintains the right** to manage the surface and surface resources on mining claims and sites located under the General Mining Law.

As you state on page 3 of the scoping letter, “The USFS is the federal land manager and regulates surface operations of the Ponderosa Exploration Drilling Project through the USFS locatable mineral regulations (36 CFR 228, Subpart A), the General Mining Act of 1872, the 1897 Organic Administration Act, the 1970 Mining and Mineral Policy Act and, as part of its decision process, the USFS must comply with the National Environmental Policy Act (NEPA) of 1969, the National Forest Management Act (NFMA) of 1976, the National Historic Preservation Act (NHPA) of 1966, the Endangered Species Act (ESA) of 1972, USFS land use regulations at 36 CFR 251, and other applicable statutes, regulations, Executive Orders, and USFS Manual and Handbook direction (collectively, “the applicable legal requirements”).”

We are looking for a hard look at applicable laws, regulations, and policies through the evaluation of the Extraordinary Circumstances, and disclosing that in a written rationale made available to the public.

## NEPA – Proposed Action

First, we are concerned that the Forest Service website ([National Directives | US Forest Service](#)), containing policy manuals and handbooks, has taken away our ability to reference relevant agency handbooks. Without any official rescinding of these policy handbooks, we are still referring to FSH 1909.15 as the officially recognized handbook to guide our public involvement rights. In the agency's official NEPA Handbook FSH 1909.15, under Chapter 10 (11.2)<sup>1</sup> - Proposed Action, Purpose and Need, and Decision Framework, it states that - A proposed action is a proposal by the Forest Service to authorize, recommend, or implement an action to meet a specific purpose and need. The scoping letter takes pieces from a 180-page Plan of Operations (PoO) to describe the Proposed Action. Our concerns include:

- On page 1 of the scoping letter it states, “Primary access to these drill sites would be along existing National Forest System roads (NFSR) and motorized trails, primarily Lawrence County Road 196 (Hanna Road) and NFSR 209 (Long Draw Road), which run in a northerly direction through the project area.” And on page 1 of the scoping letter it states, “The primary access to these sites is along NFSR 134 (Tinton Road) and NFSR 733.1 (Timber Gulch Road).”
  - ❖ OHV use is exceptionally high in this part of the Black Hills. Any roads, trails, and off-designated route travel must be monitored and managed in compliance with route designations as a result of the Travel Management decision completed for the Black Hills National Forest. Unintentional or intentional off-route use has caused and is causing excessive social and environmental issues.
- On page 2 of the scoping letter it states, “Some motorized trails in the general area have published restrictions on vehicle width. Many of the proposed drill sites under this proposed action are accessed from NFS Trail 8154, which is locally categorized as a Special Designation Trail with a width restriction of less than 62 inches. As part of this proposed action, Solitario seeks a temporary waiver of the vehicle width restriction to allow access for drilling and support equipment. Any modification of the width restriction gate on the southern end of this trail would be coordinated with USFS personnel and any changes would be conducted in accordance with

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<sup>1</sup> We know this project is not currently proposed as an Environmental Assessment (EA), yet fitting a Categorical Exclusion (CE) category. Regardless, the definition for Proposed Action applies whether it is an EA or CE.

USFS instructions. All physical changes to gates or fencing necessary for entry would conform with USFS direction. Although Trail 8154 is currently under width restrictions, the roadbed has adequate width for a pickup truck, water truck and the track or skid mounted core drill rig proposed for the project. No modifications to the roadbed are anticipated.”

- ❖ Any roads, trails, and off-designated route travel must be monitored and managed in compliance with route designations as a result of the Travel Management decision completed for the Black Hills National Forest. The use of this route, outside of designated use, will create more confusion with the OHV user group. Clear signing or some other informational effort needs to be applied in this situation to avoid long-term “but I have always ridden this before.” That is a hard one to fix once it starts. Unintentional or intentional off-route use has caused and is causing excessive social and environmental issues.
- On page 1 of the scoping letter it states, “The proposed action includes up to 49 drill sites and one staging area in the Long Draw area. The six drill sites in the Limestone Plateau area would use an existing staging area authorized under the Golden Crest project.”
  - ❖ Karst formations are critical sources of groundwater and are easily contaminated. The Black Hills Forest Plan (1504) specifically speaks to karst formations, where “In karst areas (Minnelusa and Paha Sapa or Madison Limestone), consider special precautions in operating plans to avoid damage to significant cave resources. STANDARD.” See also the Extraordinary Circumstances section and Water Quality sections.
  - ❖ There is no disclosure of the cumulative mining projects, noting that the Solitario project is utilizing the existing staging areas authorized under the Golden Crest project. This would indicate overlapping projects, or at least overlapping NEPA. Please disclose the totality of these overlapping projects from the last 10 years. Are there others proposed in the reasonably foreseeable future? See the section on page 12 of this comment letter about Cumulative Effects.
- On page 2 of the scoping letter it states, “Additional offset holes may be drilled within a 50-meter radius of the original drill site, provided they remain within 60 linear meters of the original

drill site, are located on pre-existing disturbance, are within 5 meters of the centerline of existing access routes and are within areas that have been cleared by resource surveys. Final location and approval of these offset holes would be coordinated with the USFS prior to drilling.”

- ❖ The PoO and scoping letter are specific regarding the number of exploratory drilling holes (43 + 6), yet Solitario requests allowing “offset holes.” What is the cap on those “offset holes?” What is the cap that is likely to trigger a deeper evaluation of extraordinary circumstance impacts? An uncapped number of offset holes validates concerns for risks to water quality. See the section on page 11 of this comment letter about Water Quality.
- On page 1 of the scoping letter it states, “The program will employ one or two track- or skid-mounted drill rigs operating at any one time. Drill sites will be approximately 25 feet x 75 feet (1,875 square feet or 0.04 acres each) including 5 feet x 5 feet x 5 feet sumps that may be dug to collect return water. The total area of potential disturbance is approximately 3.5 acres (2 acres total for the 49 drill sites plus 1.5 acres for the staging area).
  - ❖ The PoO states that drilling will operate 24 hours a day. This is not conveyed in the scoping letter. How will this impact extraordinary circumstances, specifically the American Goshawk and Northern long-eared bat? The Extraordinary Circumstances rationale documentation must be uploaded and made available. Without that rationale, it is difficult, if not impossible, to offer substantive input. See section on Extraordinary Circumstances.
- On page 2 of the scoping letter it states, “An estimate of the average required depth of drill holes is 400 meters (approximately 1,300 feet), based on surface geology and knowledge of local stratigraphy. However, depending on the geology encountered in each hole, the operator would have equipment on hand to drill to a maximum depth of 1,000 meters (approximately 3,300 feet).”
  - ❖ See section on Water Quality on page 11 of this comment letter.
- On pages 1 and 2 of the scoping letter it states, “All drill sites are situated in previously disturbed areas and would be reclaimed in accordance with USFS and State of South Dakota requirements.

Materials used for the project would be stored either at the staging area or individual drill sites; materials would not be stored along trails or roads or at other locations on NFS land. All materials would be removed upon completion of drilling at a particular drill site and initial reclamation would begin immediately after drill hole abandonment protocols have been completed.”

- ❖ It states that all drill sites are situated on previously disturbed areas and would be reclaimed. It appears this may be the case for the 43 + 6, but will this also be true for the “offset holes?” See the section on Water Quality on page 11 of this comment letter.
- On page 2 of the scoping letter, “Proposed drill sites have been sited to take advantage of gentle topography within areas of previous disturbance. The drill sites would require little or no modification of the previously disturbed surface to accommodate access for the drill rig, water truck, fresh water, and recirculation tanks, as well as potential sump installation for the settling and burial of particulates from drill water.”
  - ❖ It states that all drill sites are situated on previously disturbed areas and would be reclaimed. It appears this may be the case for the 43 + 6, but will this also be true for the “offset holes?” What is contained in drill water particulates that the Forest Service would tolerate burying that particulate? See the section on Water Quality on page 11 of this comment letter.
- On page 2 of the scoping letter, “Proposed drilling would be limited by seasonal weather conditions and road closures by the USFS to preserve road integrity. The time frame when roads are open in the project area typically extends from May 15 to December 15. Drilling would occur from approximately June 1 through October 15 each year for most drill sites to protect roads and prevent rutting. Operations would continue on a site specific basis until access road conditions are such that a 1-inch rut in the road is formed and only where trail grooming for winter recreation activities has not begun. Operations would end no later than December 15 because of winter road closures.”
  - ❖ Additional restrictions are often applied to projects such as those related to the American Goshawk (~ March - August), Northern Long-Eared Bat (June - July),



Sturgis Rally (First two weeks of August), and the potential for fire restrictions. See Extraordinary Circumstances below.

### **Categorical Exclusions – Extraordinary Circumstances**

On pages 3 and 4 of the scoping letter it states that, “Based upon the project description and other information provided by Solitario, and an initial assessment of the project, the USFS has determined that the proposed activities may fall under a categorical exclusion (CE). The Fiscal Responsibility Act of 2023 amended NEPA to add Section 109, which allows the USFS to adopt and utilize specific CEs from other federal agencies. Federal Register Notice 89 FR 79228, published on September 27, 2024, grants the USFS the ability to adopt CEs from the US Geological Survey (USGS). Among those CEs is USGS category 9.5G: Test or exploration drilling and downhole testing, including contracts therefor (516 Departmental Manual 9). Use of this CE requires that extraordinary circumstances be considered as defined by both USFS regulations (36 CFR 220.6(a)) and USGS regulations (43 CFR 46.215). If the analysis does not reveal extraordinary circumstances from either agency, the CE may be used and the decision documented in a decision memo (DM). If extraordinary circumstances are identified, then an environmental assessment (EA) must be prepared to determine if significant effects would occur.”

❖ The Resource conditions that should be considered in determining whether extraordinary circumstances related to a proposed action warrant further analysis and documentation in an EA or an EIS are:

- (i) Federally listed threatened or endangered species or designated critical habitat, species proposed for Federal listing or proposed critical habitat, or Forest Service sensitive species;
- (ii) Flood plains, wetlands, or municipal watersheds;
- (iii) Congressionally designated areas, such as wilderness, wilderness study areas, or national recreation areas;
- (iv) Inventoried roadless area or potential wilderness area;
- (v) Research natural areas;

- (vi) American Indians and Alaska Native religious or cultural sites; and
- (vii) Archaeological sites, or historic properties or areas.

We request the written rationale on these extraordinary circumstances. Having the written rationale would facilitate our ability to provide substantive comments. This project and the associated mining cumulative effects warrant a thorough review and documentation. We are most concerned about project impacts and cumulative effects to (i), (ii), (vi), and (vii), including the risk to the American Goshawk, Northern Long-Eared Bat, Karst formation and water quality, as well as Municipal water sources.

### **Plan of Operations (PoO)**

We have two clarities we are seeking from the proponent's submission: 1) when was the Plan of Operation signed or "accepted" as Solitario refers to in their amendment to the PoO on April 23, 2025? And 2), how was that "acceptance" formalized? Please provide that as supporting documentation and upload with other project documents.

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 has to 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, and then one that has been amended, 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 the 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**

We were unable to find any mention of bonding related to this project. In the Code of Federal Regulations and the Forest Service's 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 taxpayer foots that bill. A bond of the right monetary amount helps to provide some assurance.

We expect to see a proposal for the amount of the bond and an identification of the factors that will contribute to the bond calculation.

## **Water Quality**

On page 45 of the PoO it states, "The objective of the wellbore casing and cement plan is to ensure that the Ponderosa Project exploration drillholes minimize intermixing of ground water during and after drilling." Then on page 11 of the PoO, the proponent appears to allude to committing to the act of "capping" the exploratory drill holes by stating, "All materials will be removed upon completion of drilling at a particular drill site and initial reclamation will begin

immediately after drill hole abandonment protocols have been completed.” Ultimately, it is unclear if or how “capping” will occur, and more importantly, how our groundwater will be protected from possible contamination from this activity.

As you move further into analysis, our concern lies with the potential and dire impacts of groundwater contamination. Although one could perceive that oil & gas contamination of groundwater via drill holes may be unlikely, 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 groundwater, in an area where a significant portion of drinking water is sourced from groundwater, which is the case in the project area.

Ultimately, the discussion around drill hole capping is critical to protecting our groundwater from contaminants produced by self-imposed actions like this project.

### **NEPA – Cumulative Effects**

In the cover page to the scoping letter, it states, “My initial assessment of the project, based on the plan of operations provided by Solitario, is that this action may fall under a categorical exclusion (CE). Specifically, the proposed action may fall under US Geological Survey category 9.5G: Test or exploration drilling and downhole testing, including contracts therefor.”

❖ We have two concerns:

- 1) It is difficult for the general public to be knowledgeable of these other CEs that the Forest Service can use that are different than what is in the Forest Service-related Code of Federal Regulations or in the Forest Service Handbook. We would like the source/link to the agencies from which the Forest Service can conceivably draw CE categories from.
- 2) There is a concern for the lack of consistency, as there has been a recent exploratory drilling project on another ranger district that is not using the USGS

CE but a category from the CFRs and listed in the Forest Service Handbook (FSH 1909.19). A simple EA would serve this project analysis better.

In addition, as mentioned in the scoping letter and on the company's own website, [About Solitario - Solitario Resources Corp.](#), there is mention of Gold Crest's past exploratory drilling efforts. For example, on page 1 of the scoping letter it shares that, "These six drill sites are located near drill sites that were previously authorized under the Golden Crest Exploration Drilling plan of operations; however, these six sites were not included in the Golden Crest analysis and are now being analyzed as part of the Ponderosa project." So rather than jumping to use another agency's CE it would seem most transparent to move into a "simple" EA and disclose the cumulative aspect of the exploratory drilling and mining in the area.

The impacts on water quality and species viability of animals in the project and across the forest are concerning. Disclosure of these effects needs to be disclosed in a "simple" EA.

### **NEPA - Reasonably Foreseeable Future**

Although we recognize the distinction between "exploration" versus "mining" operations, it is difficult to truly separate the two. In this example, this scoping letter is presenting the proposal for Solitario to conduct exploratory drilling in the same area as Gold Crest Exploratory Drilling, and we can only assume that additional information has not been disclosed in this scoping letter, nor will be disclosed, as this is proposed as a CE. By utilizing a CE, our opportunity is being foreclosed to provide substantive input on the entirety or cumulative effects of exploratory drilling in this area.

We look forward to seeing a cumulative effects disclosure written in the next iteration for our review and comment per your own Forest Service Handbook 1909.15 (5.1) – 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. The following regulation applies to analysis of cumulative effects of past actions*

### **Threatened, Endangered & Sensitive Species (TE&S)**

The Forest Service must evaluate and disclose how sensitive species in the area may be impacted by the road construction and drilling activities, specifically the proposal for 24-hour drilling. One of 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 project should be managed by the agency so that it does not contribute to 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 TE&S, specifically the American Goshawk. We look forward to seeing this disclosure in the next opportunity for public review and comment.

### **Monitoring**

On page 18 of the PoO it states, “Environmental monitoring will be conducted regularly to ensure compliance with regulations and minimize ecological disturbances.”

- ❖ The lack of specificity of this statement is in contradiction to the remainder of the 180-page PoO which goes into depth on the operation portion of the exploratory drilling. For example, on the very next page (page 19 of PoO), it goes into detail on decontamination supplies. This project needs a well-defined monitoring plan due to the potential for significant impacts to groundwater and surface water.

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

## **Conclusion**

The decision by the Forest Service to utilize a non-agency CE (USGS 9.5G), while another district on the same forest utilized a CE category from the Code of Federal Regulations that is applicable to the US Forest Service and FSH 1909.15 for the same exploratory drilling intent is unacceptable. The decision to utilize the USGS CE and avoid the use of a “simple” EA appears to violate NEPA’s “hard look” requirement and foregoes our warranted active engagement and opportunity to consider objecting. A “hard look” would:

1. Examine potentially significant impacts of the approved exploration activities upon TE&S species and their habitats;
2. Examine groundwater, surface water, and riparian areas for potential impacts from the proposed action; 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.”