



Water Protector Legal Collective

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Ponderosa Project,
Northern Hills Ranger District
2014 North Main St.
Spearfish, SD 57783

July 21, 2025

Re: Water Protector Legal Collective Comment on the proposed Ponderosa Exploratory Drilling Project

The Water Protector Legal Collective (“WPLC”) submits this public comment to the U.S. Forest Service (“USFS”) in opposition to the Ponderosa Exploration Drilling Project #64551 (“the Project”). The WPLC is an Indigenous-led legal non-profit law firm and advocacy organization dedicated to providing legal support and advocacy for Indigenous Peoples and Original Nations, the Earth, and climate justice movements in the United States and internationally.

The Ponderosa Exploration Drilling Project is set to take place on unceded Treaty lands of the *Oceti Šakówinj* (Seven Council Fires of the Lakota/Dakota/Nakota, also known as the Great Sioux Nation) in the *Ĥe Sápa* (Black Hills). Solitario, the owner and operator of the Project, calls this an exploration, while also maintaining the Project is just the start to create a new mining project that will put water, cultural resources, and the economy at risk.

The Project proposal was categorized as a Categorical Exclusion (“CE”)ⁱ under 9.5 (G) Test or exploration drilling and downhole testing, including contracts therefor.ⁱⁱ The USFS and Solitario are trying to pass through this project proposal without an environmental impact statement (“EIS”). However, the Council on Environmental Quality (“CEQ”) regulations prohibit CEs where extraordinary circumstances exist (36 C.F.R. § 220.6(a)), including: (b)(1)(ii) proximity to wetlands, municipal watersheds, and ecologically critical areas; (b)(1)(i) presence of threatened or endangered species or designated critical habitats; (b)(1)(vi) or potential violation of laws or executive orders protecting Indigenous cultural resources. Given that this land is unceded Treaty territory of the *Oceti Šakówinj* and the proposed exploration takes place only a few hundred feet from Spearhead Creek, there is more than enough evidence that this proposal does not qualify for a CE. The USFS and Solitario are trying to pass this project proposal without an EIS. Pursuant to the National Environmental Policy Act (“NEPA”) and the CEQ, the Forest Service must complete a full EIS. They should also extend the period for public comments to 60 days.

The proposed Ponderosa Exploration Drilling Project should not be approved to move forward because: (1) there is a lack of environmental compliance and the inappropriate use of the categorical exclusion; (2) this project would be unnecessarily damaging to the environment; (3) the USFS has an obligation to protect Treaty rights and protect Indigenous Peoples' cultural resources; and (4) this project is not in the best interests of the surrounding communities.

Background: The Ponderosa Exploration Drilling Project

The proposed Ponderosa Project would authorize Solitario Resources Corporation to drill exploratory wells for gold across 49 sites in the Northern Hills Ranger District of the Black Hills National Forest.ⁱⁱⁱ Forty-three sites are located in the Long Draw area, and six are in the Limestone Plateau region. The operation is projected to span approximately 28 months over four years, involving industrial equipment, significant road usage, and potential road widening in ecologically fragile and culturally sensitive areas.

Past mining in this area has already impacted South Dakota's watersheds, including water used for domestic and agricultural purposes. Acid mine drainage, spills of toxic fluids including cyanide, ANFO solution, hydraulic fluid, diesel fuel, and antifreeze have all impacted the Rapid Creek watershed through previous gold mining operations. Mining is known to impact water quality and will inevitably release heavy metals into waterways. This project is slated to take place near Spearfish Creek, a waterway that local residents are fighting hard to protect. Spearfish Creek has been called a "lifeline" for the diverse ecosystem it supports.^{iv} The creek provides habitat for a diverse range of species and fly fishing for recreationalists. Mining pollution in Spearfish Creek would feed into the Redwater River and eventually the Belle Fourche Wildlife Refuge, a vital ecosystem.^v

USFS is attempting to permit this project through a CE under 36 CFR § 220.6(e)(8), which is designed for short-term mineral investigations with minimal environmental impact. This categorization is inappropriate given the scale, duration, and location of the proposed activity. The Northern Hills region has been recognized by the Forest Service in its own 2022 Black Hills National Forest At-Risk Species Assessment ("At-Risk Assessment")^{vi} as biologically significant and home to multiple Species of Conservation Concern (SCC). These include rare plant and animal species that depend on intact hydrological systems, stable soils, and unfragmented habitats.

The proposed drilling zones lie within unceded territory guaranteed to the *Oceti Šakowiy* (Great Sioux Nation) under the 1868 Treaty of Fort Laramie. The U.S. Supreme Court held in *United States v. Sioux Nation*,^{vii} that the federal government's seizure of this land was an unconstitutional "taking." Despite this, the Forest Service has failed to conduct meaningful consultation with Tribal governments or obtain Free, Prior and Informed Consent, as required under federal and international law.

Approving this project under a CE contradicts both the agency's scientific findings and its treaty obligations. A full EIS is legally required under NEPA and necessary to protect the cultural, ecological, and legal integrity of the Black Hills.

The USFS must deny the permit for the Ponderosa Drilling Project. Alternatively, if the USFS chooses to move forward, it must exclude the unlawful Categorical Exclusion, and proceed with a full EIS, with the necessary and appropriate public engagement, especially allowing mandatory Tribal consultation.

(1) The Forest Service must not consider the project as a Categorical Exclusion because the Ponderosa Project presents extraordinary circumstances under NEPA that compel, at a minimum, an Environmental Assessment and most likely a full Environmental Impact Statement.

The National Environmental Policy Act ("NEPA"),^{viii} as amended, requires all Federal agencies to consider the environmental impact of their proposed actions before deciding whether and how to proceed.^{ix} In order to comply with NEPA, the agency in charge, in this case the USFS, can determine the appropriate level of review. That may be an EIS, an EA, or reliance on CE.^x

Section 109 of NEPA, enacted as part of the Fiscal Responsibility Act of 2023, allows a Federal agency to "adopt a categorical exclusion listed in another agency's NEPA procedures for a category of proposed agency actions for which the categorical exclusion was established."^{xi} The USFS has adopted categorical exclusions 516 Departmental Manual 9.5 B, G, H, I, K, and P from the United States Geological Survey ("USGS"). For the Ponderosa Project, the USFS is claiming the CE 9.5(G): "Test or exploration drilling and downhole testing, including contracts therefor."^{xii}

However, the Council on Environmental Quality ("CEQ") regulations prohibit CEs where extraordinary circumstances exist,^{xiii} including: proximity to wetlands, municipal watersheds, and ecologically critical areas; presence of threatened or endangered species or designated critical habitats; or potential violation of laws or executive orders protecting cultural resources. If extraordinary circumstances are identified, the agency may still exclude the action from further analysis if it determines means to avoid the impacts, but we expect more from the Northern Hills Ranger District.

By classifying the Ponderosa Project under a CE, the USFS also fails to account for the layered and interconnected environmental impacts defined in 40 C.F.R. § 1508.1(g).^{xiv} Those impacts are ecological, aesthetic, historic, cultural, economic, social, or health-related, and all are anticipated in the course of this project.^{xv} The direct effects of drilling, such as habitat destruction and significant water withdrawals, are intensified by indirect impacts, including species displacement due to noise, light pollution, and hydrological changes. Most importantly, the project contributes to cumulative effects within an already stressed ecological corridor, due to

other mineral exploration activities like the Golden Crest Project. These overlapping impacts on biodiversity, water systems, and Tribal cultural resources cannot be lawfully or responsibly dismissed. These distinctions are critical and duties to understand the full scope of environmental consequences associated with the Ponderosa Project.

Proceeding under a CE in this case is both legally inadequate and scientifically unsound. A full EIS must be prepared that accounts for the impact on Spearfish Creek, municipal watersheds, endangered species, and cultural resources of the *Oceti Šakowin* (Great Sioux Nation). The public deserves a full assessment of all types of environmental effects related to this exploratory project.

(2) The proposed Ponderosa Project threatens critical natural resources, including regional water supplies, sensitive species habitat, and biodiversity, and therefore cannot be permitted without full environmental review.

Water Usage

The Ponderosa proposal says that Solitario employees will bring water from municipal districts. “Water usage is estimated to range from 5,000 to 10,000 gallons per day; however, if circulation of drill water is lost, up to 1,000 gallons per hour may be required until circulation can be reestablished.”^{xvi} This is an unnecessary waste of water. The average household in the United States uses 300 gallons of water per day, meaning that this project expects to use the equivalent of one household’s monthly water usage every single day. Seen another way, this is the amount of water used by a single person in Uganda over an entire year.

This project will take place fully within Lawrence County, SD.^{xvii} While Lawrence County is experiencing normal water levels, nearby Pennington County is at moderate drought levels.^{xviii} Further south, nearly half of Custer County is seeing severe drought, the only area of the state experiencing severe drought.^{xix} Why should the residents of Lawrence County be expected to give their municipal water resources when they do not receive any benefit from gold that Solitario may or may not find? It is also not unusual for Lawrence County to experience moderate and severe drought levels throughout the year, but Solitario wants to use up to 10,000 gallons of the county’s water per day.

Water Contamination: Chemical and Solid Wastes

While Solitario claims that drill cuttings will be “buried, mulched, and seeded,”^{xx} this method of onsite disposal raises serious environmental and legal concerns. Drill waste may contain heavy metals, sulfides, or other subsurface contaminants, depending on the geology encountered. In the Black Hills region, characterized by fractured bedrock and extensive karst terrane,^{xxi} pollutants can migrate quickly through underground conduits, threatening groundwater and nearby surface waters such as Spearfish Creek. It is known that contaminants in karst systems can travel miles in just days, bypassing natural filtration and reaching drinking water

sources or fragile aquatic habitats.^{xxii} These risks directly provoke the USFS's legal duties on both ESA Section 7, to avoid harm to listed species and their habitat,^{xxiii} as well as obligations under the Clean Water Act, which prohibits unpermitted discharges of pollutants into U.S. waters.^{xxiv} Relying on generic reclamation methods without chemical analysis or long-term monitoring fails to meet these requirements. Given the ecological sensitivity and hydrological vulnerability of the project area, it is crucial to evaluate the contamination risk and cumulative effects on regional water resources and protected species.

Biodiversity and Sensitive Species

The Project targets areas within the Northern Hills Ranger District, a subregion of the Black Hills National Forest recognized in the "At-Risk Assessment" as ecologically sensitive and home to multiple SCCs.^{xxv} Federally endangered species such as the northern long-eared bat (*Myotis septentrionalis*) are confirmed in the area and rely on intact forest canopy and quiet resting places, which are both threatened by the proposed drilling activities.^{xxvi} In addition, the American dipper (*Cinclus mexicanus*), a bird that depends on clean, flowing streams, lives in Spearfish Creek and its nearby branches, which are located very close to the proposed drilling sites. Other sensitive species, like the black-backed woodpecker (*Picoides arcticus*) and American three-toed woodpecker (*Picoides dorsalis*), rely on old forests and standing dead trees, which are habitats that could be harmed by road building and the use of heavy machinery.

Under Section 7(a)(2) of the Endangered Species Act ("ESA"), 16 U.S.C. § 1536(a)(2), federal agencies must ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of endangered or threatened species, or adversely modify designated critical habitat. This legal duty must be fulfilled in consultation with the U.S. Fish and Wildlife Service ("USFWS") or National Marine Fisheries Service ("NMFS"), and must be based on the best scientific and commercial data available.

Given this clear obligation and the known presence of protected species in the project area, the Forest Service must initiate a formal consultation under the ESA. The round-the-clock drilling, increased noise and traffic, and excessive water withdrawal are flagrant threats to those species and their habitats, destabilizing the interconnected ecosystem that sustains rare wildlife. Proceeding under a Categorical Exclusion under these circumstances violates both NEPA's environmental review requirements and the Forest Service's legal obligations under the ESA. At a minimum, a full Environmental Assessment is required; however, given the scope and risks involved, a full Environmental Impact Statement is legally and scientifically necessary.

(3) The Forest Service may not authorize this project without first fulfilling its legal obligation to protect Tribal treaty rights, conduct meaningful government-to-government consultation, and obtain Free, Prior, and Informed Consent.

The 1868 Treaty of Fort Laramie recognized the *Ĥe Sápa* (Black Hills) as "unceded Indian Territory" for the "absolute and undisturbed use occupation" of the *Oceti Śakowin* (Great

Sioux Nation) “for as long as the grass shall grow and the rivers will flow.” This treaty set aside a 35 million-acre “permanent home” in the area west of the Missouri River.

Six years later, George Custer, a Civil War veteran turned Indian fighter, discovered gold near the town now bearing his name. Settlers moved in, hoping to strike it rich. In 1877, Congress falsely abrogated the Treaty of Fort Laramie, allowing these settlers to take control. It took over 100 years for the Supreme Court of the United States to declare this a violation of the treaty and an unconstitutional taking under the Fifth Amendment.^{xxvii}

Ĥe Sápa is stolen land. Rather than return the land, however, the U.S. Supreme Court awarded \$120.5 million, the value of the land at the time of seizure. *Oceti Šakowin* (Great Sioux Nation) have refused to accept this money and continue to fight for the return of their land. There is precedent for returning the land to the Tribe. In 1987, Bill Bradley sponsored the Sioux Nation Black Hills Act, directing federal agencies to convey designated federal land directly to the Sioux Nation.^{xxviii} In 2020, the Ojibwe Reservation Restoration Act returned 11,760 acres from the USFS to the Leech Lake Band of Ojibwe.^{xxix}

Sioux Nation Tribal leaders have been working with the USDA since early 2024 on a plan to regain control of their stolen lands, called the He Sapa Restoration Act. While nothing has been submitted to Congress, the USFS is playing both sides. They want to allow this exploration project without any consent from the Tribes, insisting it’s not truly Indigenous land, but then turn around and pretend to want a partnership through this Act.^{xxx} As long as the land is disputed, it is inappropriate for the USFS to grant the Ponderosa permit without even consulting with the Tribe.

Free, Prior and Informed Consent

The United Nations Declaration on the Rights of Indigenous Peoples, adopted by the United Nations General Assembly in 2007, and recognized by the U.S. Department of State as having both moral and political force, recognizes that Free, Prior and Informed Consent (“FPIC”) is a prerequisite for any activity that affects Indigenous ancestral lands, territories, or natural resources. This was further confirmed in federal laws, including the Native American Graves Protection and Repatriation Act of 1990 (“NAGPRA”). Federal land-managing agencies are required to consult with federally recognized Indian Tribes prior to actions that might involve the intentional removal or excavation of Indigenous human remains and other cultural items.

Resource exploration like the Ponderosa Project often removes and damages Indigenous cultural items in the path of their exploration for minerals. The USFS is obligated to work with Indigenous Peoples for FPIC. Mere consultation as a procedural mechanism is not sufficient. There must be consent by consensus.

National Environmental Policy Act (NEPA) regulations direct that federal agencies involve Tribal governments to the extent practicable in preparing

environmental assessments (EAs) (40 CFR 1501.5(e)); invite Tribal government participation during the scoping process (40 CFR 1501.9(b)); and provide Tribal governments with public notice of NEPA-related hearings, public meetings, and other opportunities for public involvement, as well as the availability of environmental documents (40 CFR 1506.6(b)). The National Historic Preservation Act (NHPA) directs that consultation with Indian Tribes should be conducted in a sensitive manner respectful of tribal sovereignty and must recognize the government-to-government relationship between the Federal Government and Indian Tribes (36 CFR 800.2(c)(2)). The responsibility of federal agencies to consult and coordinate with Indian Tribes on a government-to-government basis is directed by Executive Order 13175. Forest Service Manual (FSM) 1563.1 and Forest Service Handbook (FSH) 1509.13 outline Forest Service policy and procedures regarding consultation with Indian Tribes and Alaska Native Corporations.

This comes directly from the response to objections to the Golden Crest Exploration Drilling Project proposal. However, according to the plan for the Ponderosa Project, no Tribal consultation has occurred at all. There are merely statements that it will be done. We believe this is proof enough to say that CE must be rejected on the basis of “potential violation of laws or executive orders protecting cultural resources,” and a full EIS needs to be completed.

Historic Preservation

According to the project proposal, “Consultation with the State Historic Preservation Office (SHPO) will be undertaken to determine what studies in the area have been historically conducted and what archeological sites may have been identified by past work” (pg. 20). We question who will follow through on completing this if the project is approved through CE.

Further, section 106 of the National Historic Preservation Act (“NHPA”) requires federal agencies to assess the effect that projects like Ponderosa will have on historic properties. Section 106 review must be completed before a decision is made to grant the exploratory drilling permit. Any finding of adverse effect contributes to whether a CE can be used to avoid further NEPA requirements for an EIS or EA. We do not find any mention of section 106 in the Plan of Operations or the Amendment Letter. This drilling is set to take place only 1.1 miles from Tribally-controlled land that hosts regular religious ceremonies.

(4) The Forest Service must reject this project because it provides no public benefit and instead imposes substantial harm on surrounding communities, including loss of recreation access, tourism disruption, and degraded public health.

The planned exploratory drilling project is meant to benefit Solitario Resources and its investors. This project does not benefit the surrounding community. Spearfish Canyon is called “one of the premiere national landscapes of America” and designated as a scenic byway.^{xxx} By

allowing this project to move forward, the USFS is inviting several large, loud trucks to run up and down this byway every day for months and years to come. According to their own research: “The ecosystem diversity provides habitat for large populations of mule deer and Rocky Mountain elk, which in turn attract a large number of hunters annually to Wyoming and South Dakota. This influx of people provides a large economic benefit to businesses and communities in and around the BHNH.”^{xxxii}

Further Concerns: Disruption to outdoor recreation and tourism

Solitario plans to drill 24 hours a day, 5 to 7 days a week, all summer long, as long as they can until winter shuts down their road access.^{xxxiii} Solitario says they will avoid driving by the nearby Hanna Campground and their operations will not disturb recreation, but they also admit that the noise will be audible at nearby rock-climbing areas. Hunting and birdwatching are likely to be impacted because the noise will discourage animals from being nearby. The current plan calls for two shifts per day, even after dark, basically continuous drilling for the months they are operating. This will make noise and require industrial lights. A full EIS would be able to assess the impact this light and noise would have on the animals in the area.

Environmental Justice and the right to acknowledge potential cumulative impacts

The Forest Service’s failure to meaningfully engage with local communities and Tribal Nations in the permitting of the Ponderosa Project raises serious environmental justice concerns. Environmental justice requires agencies to consider how environmental decisions disproportionately impact vulnerable or historically marginalized communities. By moving forward without the assessment of cumulative harms, the agency is perpetuating systemic inequities, ignoring the cultural, health, and environmental burdens placed on Indigenous Peoples and nearby rural residents. These concerns must be explicitly evaluated, not silenced. Once more, we demand to know the cumulative effects of this project.

The speculative economic gain vs. the ecological disturbance of this project

The current proposal reflects a direct unbalance of justice, where on one side there is a dormant financial chance in conflict with a latent disruption of peace and natural resources. The Project is purely exploratory, with no guarantee that economically viable deposits exist or that mining will ultimately occur. On the other hand, the project offers no assured public benefit and carries significant environmental, cultural, and economic risks. We recall the attention to the speculative aspect of this project, emphasizing that an empty drilling attention should not overpower or justify the disruption of Mother Earth, by disrupting the ecological peace of this land, while causing harm to Tribal culture and the surrounding communities.

Conclusion

We, the collective force of the Peoples and the local community, stand together to advocate and reclaim our call for the Forest Service and its stewards to commit themselves to this critical public duty to protect and care for the forest. We remind the USFS of its duty to safeguard and conserve this magnificent ecosystem. Given this Project's proximity to culturally significant lands, presence of endangered species, potential for groundwater contamination, and its contribution to cumulative environmental harm, the U.S. Forest Service must immediately DENY the proposal for the continuance of the Ponderosa Project #64551.

Alternatively, the USFS must ELIMINATE the unlawful Categorical Exclusion (CE) classification of the project, due to the clear and legal existence of Extraordinary Circumstances, and INITIATE immediately a full environmental procedural assessment, including the mandatory Tribal consultation.

On behalf of the Water Protector Legal Collective, thank you for the opportunity to provide comments at this important juncture.

Respectfully submitted,

Mní Wičhóni. Water is Life.

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Enclosed herewith:

Exhibit 1- Solitario Zinc Corp., Plan of Operations for the Ponderosa Exploration Drilling Project.

Exhibit 2 - U.S. Forest Service, Black Hills National Forest At-Risk Species Assessment

Exhibit 3 - Department of the Interior, Departmental Manual - Chapter 9: Managing the NEPA Process -US Geological Survey

Exhibit 4 - U.S. Geological Survey 2005 Hydrogeology of the Black Hills Area

Exhibit 5 - State of South Dakota, Department of Environmental and Natural Resources, Water Quality Near Wastewater Treatment Systems in Alluvial and Karst Hydrogeologic Settings, Black Hills, South Dakota.

ⁱPonderosa Exploration Drilling, USDA Forest Service, (30-Jun-2025).

<https://www.fs.usda.gov/r02/blackhills/projects/64551>

ⁱⁱ U.S. Department of the Interior. *516 DM 9: Part 516: National Environmental Policy Act of 1969 – Chapter 9: Managing the NEPA Process – U.S. Geological Survey*. Departmental Manual, effective November 20, 2015.

<https://www.doi.gov/sites/doi.gov/files/elips/documents/516-dm-9.pdf>

ⁱⁱⁱ Solitario Zinc Corp., Plan of Operations for the Ponderosa Exploration Drilling Project, Black Hills National Forest, Northern Hills Ranger District (Dec. 13, 2022), available at <https://bhcleanwateralliance.org/wp-content/uploads/2023/03/ponderosa-poo-12-13-22-solitario.pdf>.

^{iv} Exploring the Depths: What Does Spearfish Creek Drain Into? Lancaster Scuba, (15-May-2024).

<https://lancasterscuba.com/blogs/resources/exploring-the-depths-what-does-spearfish-creek-drain-into>

^v *Id.*

^{vi} U.S. Forest Service, Black Hills National Forest At-Risk Species Assessment (Revised Oct. 2023), available at

<https://www.fs.usda.gov/sites/nfs/files/legacy-media/blackhills/2023.10%20BKNF%20AtRiskSpecies%20Assessment%20revised.pdf>.

^{vii} 448 U.S. 371 (1980).

^{viii} (42 U.S.C. 4321-4347).

^{ix} (42 U.S.C. 4321, 4332).

^x (40 CFR 1501.3).

^{xi} (42 U.S.C. 4336c).

^{xii} Emanuel, J., Adoption of Categorical Exclusions Under Section 109 of the National Environmental Policy Act, Federal Register, (23-Sept-2024) <https://www.federalregister.gov/documents/2024/09/27/2024-22154/adoption-of-categorical-exclusions-under-section-109-of-the-national-environmental-policy-act>.

^{xiii} 36 C.F.R. § 220.6(a).

^{xiv} 40 C.F.R. § 1508.1(g)

(Title 40 – Protection of Environment, Chapter V – Council on Environmental Quality, Part 1508 – Definitions)

<https://www.govinfo.gov/content/pkg/CFR-2022-title40-vol37/pdf/CFR-2022-title40-vol37-sec1508-1.pdf>

^{xv} 40 C.F.R. § 1508.1(4)

^{xvi} Solitario Zinc Corp., Plan of Operations for the Ponderosa Exploration Drilling Project, Black Hills National Forest, Northern Hills Ranger District (Dec. 13, 2022), available at <https://bhcleanwateralliance.org/wp-content/uploads/2023/03/ponderosa-poo-12-13-22-solitario.pdf>.

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- ^{xvii} Solitario Zinc Corp., Plan of Operations for the Ponderosa Exploration Drilling Project, Black Hills National Forest, Northern Hills Ranger District (Dec. 13, 2022), available at <https://bhcleanwateralliance.org/wp-content/uploads/2023/03/ponderosa-poo-12-13-22-solitario.pdf>.
- ^{xviii} NewsCenter1, “Drought prompts water restrictions across western South Dakota” (July 5, 2024), available at <https://www.newscenter1.tv/news/local/drought-prompts-water-restrictions-across-western-south-dakota>
- ^{xix} *Id.*
- ^{xx} Solitario Zinc Corp., Plan of Operations for the Ponderosa Exploration Drilling Project, Black Hills National Forest, Northern Hills Ranger District (Dec. 13, 2022), available at <https://bhcleanwateralliance.org/wp-content/uploads/2023/03/ponderosa-poo-12-13-22-solitario.pdf>.
- ^{xxi} South Dakota Geological Survey. (2020). *RI-117: Geochemistry and Groundwater Flow in Karst Terrane of the Northern Black Hills*. <https://www.sdgs.usd.edu/pubs/pdf/RI-117.pdf>
- ^{xxii} U.S. Geological Survey. (2005). Hydrogeology of the Black Hills area, South Dakota—Part 3: Conceptual Model of the Hydrogeologic Framework (Scientific Investigations Report 2005–5160). <https://pubs.usgs.gov/sir/2005/5160/PDF/FTPpart3.pdf>
- ^{xxiii} 16 U.S.C. § 1536(a)(2)
- ^{xxiv} <https://www.epa.gov/laws-regulations/summary-clean-water-act>
- ^{xxv} U.S. Forest Service, Black Hills National Forest At-Risk Species Assessment (Revised Oct. 2023), available at <https://www.fs.usda.gov/sites/nfs/files/legacy-media/blackhills/2023.10%20BKNF%20AtRiskSpecies%20Assessment%20revised.pdf>.
- ^{xxvi} *Id.*
- ^{xxvii} *U.S. v. Sioux Nation*, 448 U.S. 371 (1980).
- ^{xxviii} ARTICLE: “WE WANT OUR LAND BACK”: RETURNING LAND TO FIRST PEOPLES IN THE LAND RETURN ERA USING THE NATIVE LAND CLAIMS COMMISSION TO REVERSE CENTURIES OF LAND DISPOSSESSION, 24 SCHOLAR 335, 350.
- ^{xxix} ARTICLE: “WE WANT OUR LAND BACK”: RETURNING LAND TO FIRST PEOPLES IN THE LAND RETURN ERA USING THE NATIVE LAND CLAIMS COMMISSION TO REVERSE CENTURIES OF LAND DISPOSSESSION, 24 SCHOLAR 335, 352
- ^{xxx} Shaefer, A., Leaders draft bill to regain some of sacred Black Hills, ICT. (2-Dec-2024). <https://ictnews.org/news/leaders-draft-bill-to-regain-some-of-sacred-black-hills/>
- ^{xxxi} Visit Spearfish, “Ecology of Spearfish Canyon,” available at <https://spearfishcanyon.com/landscape/ecology.html> (last accessed July 9, 2025).
- ^{xxxii} U.S. Forest Service, Black Hills National Forest At-Risk Species Assessment (Revised Oct. 2023), available at <https://www.fs.usda.gov/sites/nfs/files/legacy-media/blackhills/2023.10%20BKNF%20AtRiskSpecies%20Assessment%20revised.pdf>.
- ^{xxxiii} Solitario Zinc Corp., Plan of Operations for the Ponderosa Exploration Drilling Project, Black Hills National Forest, Northern Hills Ranger District (Dec. 13, 2022), available at <https://bhcleanwateralliance.org/wp-content/uploads/2023/03/ponderosa-poo-12-13-22-solitario.pdf>.