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Black Hills National Forest, Mystic Ranger District

8221 Mount Rushmore Road

Rapid City, SD 57702

22 August 2022

Re: Forest Service's Draft Decision and Finding of No Significant Impact on the F3 Jenny Gulch Gold Exploration Project:

Dakota Rural Action (DRA) is a 35-year-old, South Dakota-based grassroots organization with over 800 members. DRA's main office is located in Brookings, South Dakota, and our West River Office is located in Rapid City.

The Black Hills Chapter of DRA, which includes membership in Oglala Lakota, Fall River, Custer, Jackson, Pennington, Lawrence, Meade, and Butte Counties, has been established for over a decade. Dakota Rural Action's work focuses on issues related to food, agriculture, energy, and extractive industries with a special emphasis on protecting water, land, and communities. While the comments contained herein reflect the sentiment of our statewide organization, they more specifically reflect concerns expressed by our members who reside, recreate, and pursue cultural and spiritual activities in the vicinity of the Project area as well as downstream.

It appears our comments from last October were not addressed or considered in this new report so I will highlight some of them here as well. However all of those previous comments should be considered included in these comments.

New Comments:

Recently the Rapid City Council passed a resolution of concern about gold mining and its impacts on the water, environment and quality of life and the Pennington County Commission has made comments of concern as well. The Forest Service should strongly consider the concerns of these elected bodies and rescind this FONSI decision.

The final EA says, "The arsenic in water samples is most likely from weathering of sulfide minerals (either natural or accelerated by historical mining activities), particularly within faulted and mineralized zones." Pg 31. This is concerning as additional drilling and ultimately the act of mining which would be the end result of this process, would increase the danger of acid mine drainage.

The EA suggests the act of exploratory drilling isn't that different from the drilling or abandonment of a residential well. Residential wells are no were near the 5,000 to 6,000 feet depth of these exploratory wells. This comparison doesn't hold up. Other comments include documentation showing residential wells being far more shallow, many under 100 feet. We know the deep aquifers of the Black Hills impact water and water resources for 100's of miles around. To compare the impact of exploration at that depth to a shallow water well isn't adequate.

Previous Comments:

Purpose & Need: In Section 1.2, the Purpose of the Project ("...to identify the geological resources located with the Project area.") is clearly stated but far too narrowly defined. Clearly, the Purpose of the Project is to identify mineral resources for potential extraction (mining) and sale-not simply to determine if the resources are there. The "Need" for the Project is not directly addressed. Instead, the EA indicates that the Need "relates to F3's statutory right to access its mineral lease areas for exploration purposes."

Stating that there is a relationship between the Need for the Project and the statutory right of a company to access its mineral lease areas for exploration is not the same as determining that the company's statutory right creates or constitutes a Need for this Project at this time. DRA contends that the existence of statutory rights of mineral lease holders do not, in themselves, constitute a need to exercise those rights in specific ways or at specific times. Therefore, we conclude that Need for the Project has not been stated or demonstrated in the EA. Forest Plan Direction: Section 1.3.3 of the Project EA discusses Forest Plan Direction without any discussion of

the Forest Plan Revision process currently underway. Several DRA members throughout the Black Hills area have participated in the rapid assessment process and have identified issues specifically related to protection of Jenny Gulch, Pactola Reservoir, and the entirety of the Rapid Creek Watershed from the impacts of exploration and mining.

Forest Service personnel should be aware that the BHNH Forest Plan is well overdue for revision, and that areas in need of special protection (including, but not limited to this Project area) are currently being identified. As indicated above, the Purpose of the Project is too narrowly defined and the Need has not been identified. DRA contends that given the current Forest Plan revision underway, this Project should not be considered, much less allowed to progress, until that revision process is completed. Additionally, the Project EA identifies Alternatives which would require amendment to the current, outdated Forest Plan—a path that should not be considered or implemented during an ongoing Forest Plan Revision process.

Additionally, in Section 1.3.3, Project EA states the following Objective as applicable to this Project: "Objective 308 - Ensure that exploration, development, and production of mineral and energy resources are conducted in an environmentally sound manner so that they may contribute to economic growth and national defense." DRA contends that, considering the more fully realized Purpose of the project considered above—that is, not only the identification, but the extraction and sale of minerals from the Project Area—that the Project is in direct conflict with the stated objective.

Jenny Gulch, a direct tributary of Pactola Reservoir and of Rapid Creek, is a critical watershed area not only for the economic growth of South Dakota's second-largest city (Rapid City) as well as surrounding communities, but also for Ellsworth Air Force Base, east of Rapid City. As such, exploration and production of mineral resources in this critical and sensitive watershed area, due to its potential for ecological harm (including contamination of water supplies our communities depend upon) as well as disruption of a well-known tourism and recreation area, presents a direct threat not only to the economic growth of the region, but also to the national defense.

Forest Plan Management Area Direction: In Section 1.3.3.1, the Project EA identifies Management Areas (MA's) falling within the Project area, their management emphases, and their total acreages within the Project boundaries (though again failing to indicate the total acreage of the Project area). While mineral extraction is an identified use in some of those management areas (5.1 and 5.4), DRA contends that the primary management emphases of these areas identified in this Project EA stand to be undermined by activities of the Project.

In the case of MA 8.2, mineral extraction is not an identified "opportunity/activity." However, the Project EA identifies 123 acres of the Project area falling within this MA despite the fact that the activities described within the EA are prohibited from occurring within that area.

Other Applicable Laws/Regulations: Section 1.3.4 outlines a series of laws and regulations that apply to the Project. DRA contends that the Project EA does not demonstrate that the Project adheres to the laws and regulations listed in this Section, including, but not limited to those related to protection of cultural and spiritual resources. Specifically, DRA contends that the Project requires a formal process of consultation and cultural resource surveys with impacted Tribal Governments, and the free, prior, and informed consent of impacted Tribes.

Discussion in Section 3.3.4 holds that, "An overall determination of no adverse effect to historic properties has been made for Alternative C. THPOs were forwarded a copy of the cultural resources report on July 2, 2021 with a request for comments on the determination of effect." DRA strongly contends that forwarding a copy of a cultural resources report to Tribal Historic Preservation Officers does not constitute free, prior, and informed consent, nor does it suffice as a substitute for on-the-ground cultural resource surveys conducted by THPOs themselves.

Alternatives: Section 2 outlines three proposed Alternative scenarios for the Project, with discussions of how those alternatives would impact various aspects of the Project. Alternative A is a "No Action" Alternative, which would mean that the Project would not be implemented. Alternative B is the proposed plan of F3. Alternative C is an attempt at partial mitigation of the most serious (but by no means all serious) impacts presented by Alternative B.

Project EA indicates, "Alternative A does not meet the Project's purpose and need as it would negate F3's statutory right under the Mining Act of 1872 to access its mineral lease areas for exploration purposes." However, as previously indicated, the "Purpose" for the Project has been too narrowly defined and the "Need" for this

Project has not been stated or demonstrated in the Project EA. Further, DRA contends that Alternative A does not necessarily negate altogether F3's statutory right to access its mineral lease areas. Instead, an Alternative A decision could point to any number of other known problems with the Project, the Project EA, the other Alternatives presented in the Project EA, and/or the failure of those Alternatives to prevent or eliminate damage to the environment, to cultural resources, and/or to other established aims of the Management Areas contained within the Project boundaries.

Further, although Project EA indicates that the Agency does not appear to consider Alternative A an actual alternative, "A No Action Alternative is carried forward for further analysis in this document to serve as a basis to compare other alternatives against." DRA contends that no "basis" can be formed where the baseline of "no action" is not an actual choice or action the Agency is willing or able to make. If the Alternative exists and is outlined in the Project EA (as it is here), it is one that can be acted upon.

Conclusion:

A Finding of No Significance Impact doesn't hold up under common sense scrutiny as the impact of this exploration will be significant to the environment, the water and the people who live, worship and enjoy the area. Dakota Rural Action contends that Alternative A, the "No Action" Alternative is a credible action for the Agency to take, and one that is well-supported by law, by the issues raised herein, and by our members and the community as a whole. Further, DRA contends that Alternative A presents the only acceptable alternative, and we respectfully request the Agency make a "No Action" determination on the F3 Jenny Gulch Gold Exploration Project.

Sincerely,

Frank James
DRA Director