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Organization: Black Hills Clean Water Alliance

Title: Executive Director

Comments: Please see attached objection letter and attachment from Black Hills Clean Water Alliance.

Thank you.

Liliias Jarding

RE: Golden Crest Exploration Drilling Project Objections

Dear Mr. Kozel:

This document serves as our objection to the Forest Service's Final EA, Draft Decision Notice, and Finding of No Significant Impact (FONSI) for the gold exploration drilling project that is proposed by Solitario Resources (Solitario) west and southwest of Spearfish Canyon. Solitario has dubbed this proposed project the Golden Crest Project.

A baseline issue is that the Draft Decision Notice and FONSI fail to address the fact that Solitario proposes to drill on land that is part of a sacred landscape to the Lakota and other regional native nations. This status is important under the National Historic Preservation Act and National Environmental Policy Act (NEPA). The Black Hills are also reserved to the Lakota under the 1851 and 1868 Fort Laramie Treaties, and they should have final say in what happens in the area. Tribal consultation [ndash] as well as following Lakota guidance [ndash] are thus critical to this project and was grievously inadequate for this project. This violates executive orders on tribal government-to-government relations and on environmental justice, as further discussed below. The 1872 Mining Law applies in Lakota jurisdictions only with their permission.

In addition, it is critical that the Forest Service carefully observe the National Historic Preservation Act (NHPA), Archeological Resources Protection Act, and Native American Graves Protection and Repatriation Act (NAGPRA). From the relevant Forest Service documents, it appears that Lakota cultural resources experts were not directly involved in any cultural resources survey. This means that Lakota protocols for historical, human, and cultural activities were neglected. Additionally, Tribal Historic Preservation Officers (THPOs) must be consulted if archeological, human, or cultural resources are discovered at any stage of the proposed project, including its beginning. There is no sign that any of this has been done for this project.

In the same vein, the Environmental Assessment, Draft Decision, and FONSI do nothing to resolve the fact that the words [ldquo]Environmental Justice[rdquo] are present in the heading [ldquo]Socioeconomics and Environmental Justice[rdquo] [ndash] but there is only one sentence related to environmental justice, and that sentence is misleading. It says [ldquo]The project will not have disproportionately high or adverse human health impacts, including social and economic impacts, on minority or low-income populations.[rdquo] We think most people would agree that having someone drill for gold in the equivalent of a minority group's church or mosque would be a [ldquo]disproportionately high or adverse[rdquo] health and social impact. The paragraph then goes on to talk about the results of BHNH's meager efforts at tribal consultation, but does not mention public and organizational comments on environmental justice issues. This violates relevant executive orders. You mention EO 12898 specifically in the FONSI, and EO 14096 is another one of the relevant documents.

Tribal consultation and environmental justice are not concerns only for tribal members or tribal governments.

NEPA and the National Historic Preservation Act are clear that the general public has an interest in and is impacted by these issues, and that we all have the right to comment and object on these topics.

As you know, the placement of this proposed project is important. It is directly west of a designated State and Forest Service Scenic Byway through Spearfish Canyon. It is ironic that the Forest Service would even consider a mining-related project in an area that might impact its own Scenic Byway. The waterways in the proposed project area flow into Spearfish Canyon, and any impacts on water in the proposed project area also impact the wildlife, human residents, cultural resources, and scenery of Spearfish Creek as it flows through the Canyon and into the City of Spearfish's water system. The Draft Decision and FONSI duck these issues by considering only surface water in the immediate area of the project, but water does still flow downhill, which would involve Spearfish Canyon and the municipal water supply of the City of Spearfish. The Canyon's Scenic Byway is a major tourism and economic driver for the City of Spearfish and rural businesses in the area, as well as a place to enjoy scenery, recreation, wildlife, and other activities.

Similarly, the Draft Decision and FONSI minimize impacts on recreation in the proposed project area, stating that they would be minor and not significant without providing supportive reasoning. This is an abuse of officials' discretion, as disruption of recreation is a major problem with this proposed project, and a number of drill pad sites would interact with recreation sites very directly.

The Forest Service should have supported its decision on night-time drilling, lighting, noise, and traffic, where they are permitted. Impacts on wildlife should receive specific and detailed study. The Forest Service should not just assume that some species will simply move away, and will then return after drilling is completed. This leaves a lot of questions open. Where would each species move? Would it encounter problems from the wildlife already living in that area? What would be the incentives for them to return? Has this theory of wildlife movement been studied and, if so, what were the results for each relevant species? NEPA requires a [ldquo]hard look[rdquo] at these types of issues.

The Forest Service's discussion of water issues is also inadequate. For example, the sources of water to be used, used up, and contaminated are not specified. At the very least, it should be clear where drilling water is coming from, rather than a vague reference to two cities' municipal sources [ndash] where do those cities get water? Which city would Solitario get water from [ndash] or both? What part of what watershed(s) would be impacted by drilling wastes being scattered over the ground and/or by spills and/or by flash flooding at each drill site and at the staging area? Again, this issue did not receive NEPA's required [ldquo]hard look.[rdquo]

Other water issues include the fact that the description of the reclamation of drill solids is not specific enough. What would a sump be lined with? How big of a sump are we talking about? Would there be more than one sump for a large, spread out project like this one? What volume or waste are we talking about? What would its composition and characteristics be? What specific geologic research gives Solitario or the Forest Service the idea that there will not be artesian discharge from drill holes? This is an important question that impacts the feasibility of the project. The prevention, impacts, and remediation of hazardous materials spills are not considered [ndash] either into water or in any other context [ndash] and should be under NEPA, the Clean Water Act, and other relevant laws.

Solitario is asked in Section V.5. of the POO about wastewater disposal, location and operation of land application of wastewater, and how resources will be protected during these processes. Then it says [ldquo]No land application of wastewater is part of the Plan.[rdquo] This is untrue. The solid wastes from the operation will be contained, drained, and then buried, according to the company and the Forest Service. The mitigation processes for these activities are hopeful, but there is little to back them up.

In the POO, Solitario was asked to [ldquo]Describe the annual and final reclamation standards.[rdquo] This is done for drill holes and for a seed mix, but standards are not provided for other activities, which are just generally

described. The company and the Forest Service say that the proposed drill sites are located on lands that have been [ldquo]previously disturbed by logging and other activities,[rdquo] but neither the company nor the Forest Service provides detailed and appropriate information on:

- * the characteristics of the current [ldquo]disturbed[rdquo] areas and their resources,
 - * when disturbances happened at each drill, staging, and travel,
 - * what [ldquo]other activities[rdquo] means,
 - * how much of the proposed drilling area and access roads have been disturbed,
 - * whether all disturbances and disturbed areas are the same and, if not,
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- * what the differences are,
 - * how many acres are impacted in each different way,
 - * the significance of the differences, and
 - * what reclamation approaches will be applied in the different areas.

At a minimum, this information is necessary to have some understanding of what reclamation will look like and to satisfy NEPA.

Several other topics were not dealt with. For example, the Forest Service says there will be no hazardous materials at drill sites, but this is clearly untrue. There will be equipment with gas, oil, and other hazardous materials present. This topic needs to be covered in detail, including safety plans for employees and the public, the location(s) of nearby fire department(s), and the suitability of area fire fighting equipment for the types of terrain and types of hazardous materials that may be encountered on the proposed project sites.

In addition to these issues, cumulative impacts are not discussed thoroughly, as required by NEPA. Solitario has a second proposed gold exploration project just across Highway 85 and to the southwest of Cheyenne Crossing, the Ponderosa Project. The Forest Service has received and acknowledged the POO for the Ponderosa Project and clearly knows it is present. There is gold drilling on private land on the east side of Spearfish Canyon (Dakota Gold/DTRC), as well as a large operating open-pit gold and silver mine a few miles east (Wharf Mine), a gold mining Superfund site (Gilt Edge site), and mining claims that come right up to the Canyon.

A map of mining claims in the Black Hills as of October 2, 2023, is attached. It shows that there are mining claims right up to the edges of Spearfish Canyon on both sides, as well as across most of the northern Black Hills. There is a total of about 293,000 acres of active mining claims in the Black Hills. This is 23% of the total area of the Black Hills National Forest, and the Forest Service should be paying attention and focusing on how to protect the nation[rsquo]s resources, not just how to give public resources to mining companies without the payment of royalties.

The 1872 Mining Law may apply here, but the Forest Service has broad discretion and should use that authority to protect this area of cultural, recreation, scenic, municipal water, and economic importance. To resolve my objections, the best and most efficient remedy would be to select the No Action Alternative for the Golden Crest Exploration Drilling Project. I respectfully ask that the Forest Service do this. In addition, I formally request a long-term remedy -- that the Forest Service propose a mineral withdrawal for the entire Black Hills, as has been done for a small slice of the Black Hills near Pactola Reservoir.

These objections are consistent with our scoping comments and comments on the Draft Environmental Assessment for this proposed project.

Two issues arose after the scoping and Draft EA comment opportunities closed. These issues were discovered or occurred during the objection period. The first is that [ldquo]scheduled[rdquo] USFS computer maintenance

was [ldquo]scheduled[rdquo] in the later part of the final day of the objection period. This, as I[rsquo]m sure you know, is when the highest percentage of people usually file their comments or objections. If the maintenance was [ldquo]scheduled,[rdquo] there were at least two possibilities. One is that the schedule could be changed when someone first discovered that this is the very end of an objection period. The second is that the BHNF did not do its due diligence before scheduling the objection period. Either of these raises issues with the ending date of the objection period, the transparency and fairness of the Forest Service, and even its competence.

The second issue that arose after the scoping and Draft EA comment opportunities was that people discovered that the reason their comments were not showing up in the public comments list was that they had mentioned [ldquo]tribe[rdquo] or [ldquo]tribal[rdquo] or [ldquo]treaty[rdquo] [ndash] or maybe just mentioned being a tribal member. While protection of the locations of specific cultural resources sites and of ceremonial information is a valid reason to keep comments off the public-facing portion of the Forest Service[rsquo]s website, the mere mention of issues having to do with indigenous peoples is not.

This Forest Service practice raises issues of discrimination and environmental justice. First, people were prevented from knowing how many comments raised tribal issues. This minimized the perceived importance of those issues. Second and furthermore, the public was prevented from knowing what issues were of importance to indigenous peoples. These are straight-up discrimination on the basis of national origin, race, ethnicity, or all of the above. Third, from an environmental justice standpoint, this creates an extra burden for indigenous participants in the NEPA process. They had to go to extra work [ndash] contacting the BHNF -- to ensure that their comments were visible to the public. And fourth, indigenous people who raised issues of critical importance to their lives, families, communities, governments, and nations were prevented from knowing that others shared those concerns.

For these and other reasons, we object to the Final Environmental Assessment, Draft Decision, and Finding of No Significant Impact and demand that the Forest Service [ndash] at a minimum [ndash] select the No Action alternative and [ndash] more appropriately [ndash] propose a mineral withdrawal for all federal lands in the Black Hills.

If you have any questions, please let me know.

Sincerely,

Lilias Jones Jarding, Ph.D.

Executive Director

Att: Mining Claims map 10-2-23