

**Deisch, Shelly**

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**From:** Jerry Boyer [spearfishcanyon@rushmore.com]  
**Sent:** Tuesday, November 02, 2004 10:58 AM  
**To:** Shelly Deisch  
**Subject:** public comment on Public Restoration Plan

Shelly, please accept this e-mail as my comments to the proposed Public Restoration Plan.

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- A) Application of NRDA funds to Spearfish Canyon are appropriate as landscape is state and national treasure worthy of State Recreation Area designation.
  - B) Canyon properties identified for state conservancy are significant recreational and ecological assets enjoyed by all state residents.
  - C) State conservancy project is appropriate final land conservancy phase of canyon landscape following successful completion of eight-year, \$1.4M Spearfish Canyon Foundation/USFS Land Trust project in which 750-acres were conserved. State project will raise public ownership of the 9,800-acre canyon landscape to 95% providing a worthy legacy for future generations.
  - D) State's canyon conservancy project is appropriate extension to State Scenic Byway.
  - E) Former Maurice Hydro #2 should be considered for a canyon interpretive center, and maintenance facilities across byway as university study area.
  - F) State acquisition of these sensitive ecological sites will provide greater protection of fisheries and American Dipper habitat.

21 I applaud State's efforts in this public project.

Jerry J. Boyer  
1115 N. Third Street  
Spearfish, SD 57783  
Home Office: 605-722-8798

South Dakota Cattlemen's Association  
November 26, 2004

Comments on the Draft Conceptual Restoration Plan and Environmental Assessment for Whitewood Creek and the Belle Fourche and Cheyenne River Watersheds, South Dakota

The South Dakota Cattlemen's Association (SDCA) is a voluntary organization representing 1400 people from all areas of the cattle industry and state who are working to advance the interests of South Dakota cattlemen through the representation and promotion of the beef industry. Because it is a voluntary organization, short comment periods prevent us from completing a detailed review of the Draft Conceptual Restoration Plan. The SDCA strives to preserve the industry's heritage and ensure our future. We appreciate this opportunity to share our perspectives on the proposed plan. There must be an open dialog with producers before initiating any comprehensive plans that have a direct impact on private landowners and their property rights.

The South Dakota Cattlemen's Association cannot endorse the preferred alternative for the following reasons:

- 1c 1. Environmental discussion in Part 5 mentions little about the losses that livestock producers have incurred as a result of the pollution damage. Only wildlife is directly mentioned. The impact of poor water quality on livestock performance and survival must be considered, particularly in the one hundred year flood plain. Little was found in the document that addresses these past losses or any plans to correct the conditions for livestock operators along the drainages mentioned.
- 12 2. All the alternatives appear to discuss fencing livestock out of the streams with no mention of implementing alternative water supplies. Permanent fences are proposed to eliminate livestock, while temporary fences are proposed for humans and wildlife. The legality of such actions under the current water rights laws is questionable. And, if fencing was feasible, consideration of installation of alternative water supplies for adjacent grazing lands must be considered. Cost of maintaining the fences must also be included in the assessment.

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3. Alternatives discuss purchase of land and permanent easements. SDCA has policy that supports a socioeconomic assessment before any private land is sold to government agencies (2002-18). SDCA also has policy that does not support permanent easements (2001-31).

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4. The short comment period on this plan does not provide adequate time for private landowners to become aware of the contents of the Draft Conceptual Restoration Plan. This is contrary to SDCA policy (2003-27) concerning private property rights.

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5. Details are sketchy to say the least about details of "other funding sources" involvement in the acquisition of land or easements mentioned in the preferred alternative. Habitat actions are mentioned within the "Restoration Site drainages or adjacent watersheds".

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SDCA believes the implications of this alternative are too ambiguous and open-ended to be able to support this alternative. 6. Appendix 4, Scoping List, clearly displays the absence of any producer organizations representing voluntary producer groups. As mentioned in the beginning of these comments, SDCA represents livestock producers who make a living and contribute to the economic viability of the great state of South Dakota. The livestock industry and landowners should be included in any planning ventures that will in fact impact their ability to survive. SDCA recommends Alternative 1 at this time, but would consider an alternative that clearly delineates what property is to be acquired or considered for easements and that addresses the issues cited in these comments.

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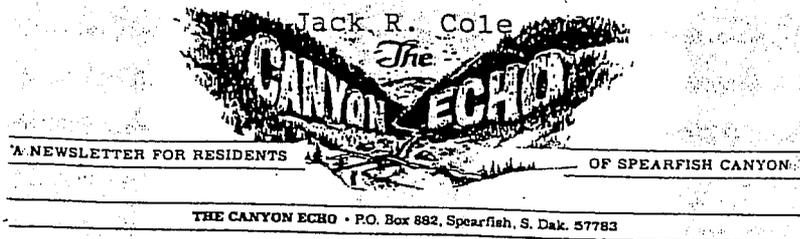
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6. SDCA also recommends that Department of Environment and Natural resources be designated as the lead agency for this project and that any plan adopted receive legislative approval.

21 Sincerely,

*Brian Brockel*

Brian Brockel  
SDCA President



November 30, 2004

South Dakota Department of Game, Fish and Parks  
Shelly Deisch, Restoration Coordinator  
3305 West South Street  
Rapid City SD 57702

RE: Land in Spearfish Canyon

Dear Shelly:

21  
Thank you very much for sending me the material in order to more fully understand the "restoration plan for Whitewood Creek" and etc.

17 { I want to thank you also for a most impressive, skillfully prepared document. We generally support the acquisition and future protection of lands in Spearfish Canyon as defined in the proposal and as qualified below.

We wish to have your Agency and other related agencies protect the Canyon in the manner in which it has been cared for by Homestake, the people who have invested in residences here and many others for much of the last one hundred years. We wish to request that all involved in that endeavor to continue such policies forever.

Outlined below are some of our comments, suggestions and requests:

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1. Barrick inherited several policies, practices, judgments and environmental responsibilities of the Homestake Mining Company of California by merger in the last few years.

Barrick has been doing such an admirable job in Lead and nearby in "reclamation" and other projects, that we have not as yet taken the time to review these responsibilities with Barrick's Mr. Karl Burke of Lead.

Many Canadian hard rock mining companies operating in the United States have turned out to be irresponsible "deadbeats". Our families are shareholders in Barrick and we have great confidence in them (BARRICK)

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2. We expect that the South Dakota Department of Game, Fish and Parks would be responsible in the future for the land they are acquiring and for performing and following the policies and practices that Homestake, South Dakota local government agencies, the Federal E.P.A., Congress and other local and national groups have specified and followed in caring for Spearfish Canyon for much of the 20<sup>th</sup> Century.

Shelly, we are pleased to enclose a copy of a recent report we prepared for local officials who were interested in why Spearfish Canyon was such a successful, profitable, valuable and minimally subsidized land area in the Western United States.

As you may be aware the State Government of South Dakota has a reputation nationally as being one of the most poorly managed States in the United States. In our view our current Game, Fish and Parks Department, under Mr. John Cooper, is a clear exception to the errors and weaknesses of South Dakota general State operations. (A complete record of our South Dakota State Government's embarrassing weaknesses is available on request).

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3. We trust that some satisfactory method can be found to avoid taking away the small parcels of land along the rivers that many ranchers in South Dakota have had and cared for in their family for generations that Homestake has owned and has been leasing to them. Game, Fish and Parks' money can surely be spent more usefully by using it to clean up the pollution as intended.

Our personal experience in working with Game, Fish and Parks Departments and similar agencies over much of the Western United States is that the less public ire and criticism that the "director" of such an agency receives, the longer and better he is able to do the job for most of the local citizenry.

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Our "director" in South Dakota has recently been facing considerable public criticism and it would be unfortunate if we would lose such a skilled professional leader by any more organized opposition due to the policies of the agency. Taking away small parcels of land that have been a part of many ranches in South Dakota would certainly add to a great deal of heavy and deserved criticism.

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4. Several topics that we would be pleased to fully discuss with whomever will be drafting the plans and necessary decisions for the long-term care of the land Game, Fish and Parks is considering acquiring from Barrick are:

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**Topic numbers** in the review of the unique economic and social values of Spearfish Canyon are marked in the enclosed recent report in on each page with Roman numerals:

I. Why Spearfish Canyon is one of the most successful, profitable, self-supporting and minimally subsidized canyon areas in the Western United States. (Much of this success has been due to the support of public agencies in the Black Hills, South Dakota citizens and groups that have made the success possible).

II. The basic requirement of following the "serenity" preservation guideline as established by Congress, Homestake, United States Forest Service, Tom Daschle, Spearfish Canyon Owners Association, Spearfish Canyon Preservation Trust, the U.S. Forest Service official "decision" of April 1991 and etc. must continue.

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Another project we would hope that Game, Fish and Parks will embark upon is a resumption of the Long-Range Planning Committee for the long-term protection of Spearfish Canyon in areas where Barrick is responsible for supervision of water quality, et al.

III. The recent *49 Accomplishments* protecting Spearfish Canyon and the Northern Hills.

IV. A more aggressive and productive program of preserving the endangered American Dipper. We have been in touch with your people in Pierre on this issue and have found them very helpful, but there is much to be done and we have some suggestions on that.

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**Other projects for the protection of Spearfish Canyon:** Homestake's pledge to "not allow development of their land in Spearfish Canyon in excess of the 15<sup>0</sup> that they have sold (primarily up the ~~East~~ Spearfish Creek" drainage). This is an essential requirement and we certainly would anticipate that Game, Fish and Parks would agree to that responsibility.

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It may also be helpful for you to understand how these long-term policies work in the Canyon by studying the "deeds" that have been signed by the property owners in the Canyon and the deeds and agreements the few commercial enterprises are restricted with.

V. How "open pit mining" continues to damage the surface water flows of approximately 1/3 of the surface waters coming into the Canyon. This will require some independent, non-political study and evaluation.

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A recent study suggests that "taxpayers" will eventually be burdened with another \$150,000,000 for **meaningful**

"reclamation" under State and Federal laws to protect water quality and return the land damaged by heap-leach mining in Lawrence County to some taxable value.

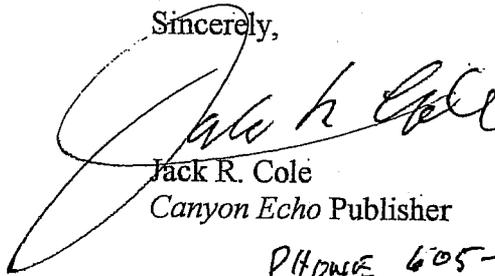
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- VI. The report as to the cost of the poor management of Terry Peak Mountain (which is a prime example of the short sightedness of the past South Dakota management of its water and other natural resources).

(Incidentally, voters in Montana recently reconfirmed their previous decision to outlaw any further open pit heap leach mining).

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Shelly, thank you again for the fine work that has been done and we look forward to reviewing any and all of these suggestions at your earliest convenience.

Sincerely,



Jack R. Cole  
Canyon Echo Publisher

PHONE 605-584-3178

JRC:jmc  
Enclosures

Shelly Deisch, Restoration Coordinator  
3305 West South Street  
Rapid City, South Dakota, 57702

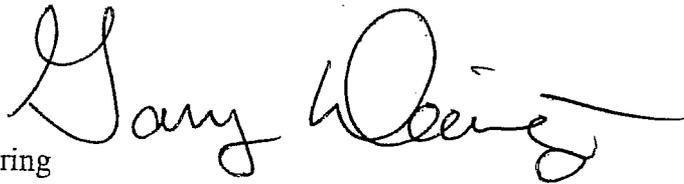
Dear Shelly,

I am writing you in order to comment on the Draft Conceptual Restoration Plan for Whitewood Creek and the Belle Fourche and Cheyenne River Watersheds, South Dakota.

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I believe, there could still be a possible threat, to the public, as a result of toxic substances released by the Homestake Mining Company. Therefore, it is my strong belief, restoration money should be held onto in case problems should arise in the future. By accepting settlement, from Homestake Mining Company, the State of South Dakota, has the responsibility to ensure its public of their safety from toxic substances in the watershed, now and for years to come.

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Therefore, I conclude, restoration money must be readily available to fix problems, if and when they arise. Alternative 1 (no action), is the only alternative, within this plan, that I am in favor of.

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Sincerely,



Gary Deering  
21001 Wurnig rd.  
Sturgis, South Dakota, 57785

# **ACTion for the Environment**

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**"Our environment is our economy"**

**P.O. Box 291  
Rapid City, SD 57709**

November 17, 2004

Shelly Deisch, Restoration Coordinator  
Plan HMC-NRRF  
SD Department of Game, Fish and Parks  
3305 West South Street  
Rapid City, South Dakota 57702

RE: DRAFT PLAN on use of Money from Homestake Suit Settlement

To Whom it May Concern:

On behalf of my organization, ACTion for the Environment, I should like to indicate our support for this plan.

17 We believe there is general consensus not only in this area but throughout the state that there should be no further private development, particularly of a commercial nature, in the Spearfish Canyon area.

21 In that there is some land there which is private and could be so developed we believe it is in the public interest that these lands should be in the hands of the public through the agency of the state. We believe this plan does project such possible acquisitions and we are in favor of this.

Sincerely,



Richard L. Fort, President  
ACTion for the Environment  
11307 Black Forest Road  
Lead, South Dakota 57754  
rlindfort@mato.com

**Deisch, Shelly**

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**From:** Kenny Fox [foxranch@gwtc.net]  
**Sent:** Thursday, November 25, 2004 11:19 AM  
**To:** shelly.deisch@state.sd.us  
**Subject:** Draft Conceptual Restoration Plan for Whitewood Creek

Shelly Deisch:

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Thank you for allowing me to comment on such an important issue as the Draft Conceptual Restoration Plan for Whitewood Creek. I am opposed to this plan because it is a back door attempt to take the land along the Belle Fourche, Cheyenne Rivers and Whitewood Creek watershed areas from their rightful owners. I believe that the allocated funds for this project would be better suited to restore the contaminated mine properties along the watershed areas of these rivers and tributaries than the purchases of these lands by the South Dakota Game Fish and Parks, after all this is what the money was intended for. I prefer that the contaminated property or properties be brought back to a healthy state. Acquiring property through outright purchase or through easements is not the way to go about this endeavor. There could be harmful effects yet to be discovered from the contaminated property or properties. I believe that if the state uses the restoration funds to purchase additional lands they will not have the financing to deal with future problems that may arise.

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I urge Governor Rounds to give administrative authority over the fund to an entity responsible for the state's health and welfare, rather than the the Game Fish and Parks. "Secretary Cooper" should not be expected to shoulder the burden of ensuring the health and safety of the public as it relates to the mine property. That is expecting too much out of our game management agency.

I fully support the comments submitted by the South Dakota Stockgrowers Association.

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Respectfully,

Kenny Fox

P.O. Box 37  
Belvidere, S. D.  
57521

Board of Directors  
Bob Geis, President  
Jim Nelson, V Pres.  
Dick Plumier, Sec.  
Paul Hedge, Treasurer  
Steve McCarthy, Exec. Com.  
Linda Christensen  
Wade Hart  
Jack Wanstedt

Rec'd 11-29-04  
Hand-delivered by Bob  
Ge

*Spearfish Canyon Owners' Association*  
PO Box 480  
Lead SD 57754

Shelly Deisch  
Whitewood Creek Restoration Plan Coordinator  
SD Department of Game, Fish and Parks  
3305 West South Street  
Rapid City, SD 57702

23 November 2004

Re: Draft Conceptual Restoration Plan for Whitewood Creek, and  
The Belle Fourche and Cheyenne River Watersheds, South Dakota

Dear Ms. Deisch:

Thank you for providing Mr. Jim Nelson, Vice President/Spearfish Canyon Owners Association(SCOA) with the referenced Draft Plan as well as the subsequent clarifications in the 1 November 2004 SD Game, Fish and Parks letter signed by John L. Cooper, Department Secretary. This letter also transmitted Governor Rounds' clarifications and changes to the Draft Plan and the 1 November 2004 News Release noting that the "state is currently exploring the purchase of 469 acres of land in Spearfish Canyon." This latter purchase is of obvious interest to the Spearfish Canyon Owners Association(SCOA), and Mr. Nelson subsequently asked for, and you provided the maps of the precise lands proposed for purchase using part of the monies from the HMC-NRRF funds available for this Draft Plan execution.

We have subsequently read the Draft Plan in detail, and agree in general with the selection of Alternative 6 as the preferred alternative, based on the data and analyses presented. However, we must also state that we are not aware of what the affected landowners along the areas of proposed restoration and/or permanent protection for Whitewood Creek, the Belle Fourche and Cheyenne Rivers may feel are issues pro and con regarding the proposed approaches for those watersheds. However, since Alternative 6 does allow for restoration, enhancement and/or permanent habitat protection involving actions within the Restoration Site drainages, or adjacent watersheds with similar trust Resources(my underlines), we assume Governor Rounds is applying these criteria properly and legally to allow the State to use HMC-NRRF funds to acquire the proposed sites in Spearfish Canyon.

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In applying the Draft Plan Evaluation and Ranking Criteria, it would seem that the proposed action to acquire the Spearfish Canyon Sites would achieve rankings of High in all but two areas: (1) 8.7-Location of Project, would be Medium, and (2)8.8-Cooperative Efforts, which ranking we are unable to estimate, since it is not clear who/what organizations might be Cooperators as described in the criteria. For this issue, we would expect that to be part of any Prospective Proposals as outlined in Section 9, which gives instructions for such proposals, the Cooperators would have to be identified. I will return to this point later.

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As currently understood, SCOA can enthusiastically support Governor Rounds use of part of the HMC-NRRF monies for "Spearfish Canyon Lands Acquisition: A Project

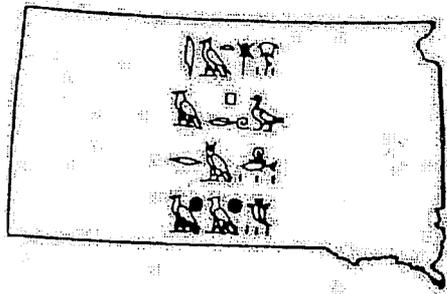
Proposal to Restore, Replace and/or Acquire the Equivalent of Trust Resources and Lost Services", with a Project Title: "Spearfish Canyon Lands Acquisition", which would include: (1) Savoy Intake—17 acres, (2) Spearfish Falls and Trail—83.37 acres, (3) Little Spearfish Intake—38.25 acres, (4) Roughlock Falls—included in (3), (5) Hydro #2—40.71 acres including the HMC Storage Area, and (6) Canyon Mouth—~290 acres. These parcels are prime lands for the State to protect from development and we can support their acquisition by GF&P in consonance with the SCOA Articles of Incorporation which tasks SCOA under Article III, Section A. ... "to maintain the beauty, serenity, and attractiveness of Spearfish Canyon and monitor and protect the water quality and flow of Spearfish Creek and its tributaries and to preserve in perpetuity the covenants and conditions placed upon said property by Homestake Mining Company of California".

5 In paragraph 3 above, I noted that it is not clear who/what organizations would be "Cooperators" in this proposal for Spearfish Canyon Lands Acquisition. The criteria for Cooperators includes providing funds or in-kind contributions from a... "cooperator willing to enter an remain active in management plan agreement." Since Governor Rounds' proposal is not developed or described to the point of who one or more cooperators might be, SCOA must qualify its support until we are able to see the "Final Plan" scheduled to be available shortly after the close of public comment on December 1, 2004.

17 As we understand it, at present HMC-NRRF funds would be used to partially fund this acquisition, with the remainder of the funds possibly coming from Homestake legacy funding and possibly, "Cooperator" funds, although these details are as yet undefined. We would want it clearly understood that SCOA could not be a Cooperator in terms of providing any funding support for this project, since we are a non-profit organization with no source of funding other than member dues and taxes collected for the Spearfish Canyon Fire District, the latter of which are monies which are restricted to use for the Fire District. Further, we would not support any use of these lands restricting full public access or use for commercial purposes. Finally, we will want to see how maintenance of these lands is to be performed and funded as per the criteria stated in 8.9 Maintenance. These are important details which we look forward to understanding as the Project is fully defined.

21 Thank you again for soliciting our comments, and we look forward to reviewing the Final Plan which we sincerely hope can be implemented such that these parcels are acquired and protected in perpetuity in consonance with SCOA Articles of Incorporation as stated previously.

  
Bob Geis  
President, SCOA  
907 Franklin  
Rapid City, SD 57701



# THE WILDLIFE SOCIETY

*South Dakota Chapter*

Steve Griffin

The Wildlife Society, SD Chapter

3305 West South Street

Rapid City, SD 57702

December 1, 2004

Joy Gober

US Fish and Wildlife Service

420 South Garfield, Suite 400

Pierre, SD 57501

Shelly Deisch

SD Department of Game, Fish, and Parks

3305 West South Street

Rapid City, SD 57702

Dear Ms. Gober and Ms. Deisch,

The South Dakota Chapter of The Wildlife Society (SDTWS) has received and reviewed a copy of the Draft Conceptual Restoration Plan for Whitewood Creek and the Belle Fourche and Cheyenne River Watersheds, South Dakota.

30 One of the objectives of SDTWS is to develop and promote sound stewardship of wildlife resources and of the environment upon which wildlife and humans depend. We are in favor of opportunities to restore and protect land that will be held in Public Trust through cooperative agreements by State, Federal, County or Local Governments, non-profit organizations, or willing private citizens.

21 Therefore, SDTWS is in agreement and supports Alternative 6, which is the preferred alternative. SDTWS is in favor of restoration and permanent protection of lands that will be held in the Public Trust.

Sincerely,

A handwritten signature in cursive script that reads "Steve Griffin".

Steve Griffin

Chapter President

Missouri Breaks Chapter of the National Audubon Society  
P.O. Box 832  
Pierre, SD 57501  
19 November, 2004

Shelly Deisch  
Restoration Coordinator  
3305 West South Street  
Rapid City, SD 57702

RE: Draft Conceptual Restoration Plan for Whitewood Creek, Belle  
Fourche... Watersheds

21 Thank you for the opportunity to comment on this planning document. Missouri Breaks Audubon is a chapter of the National Audubon Society consisting of 43 members in the Pierre/Ft. Pierre area. We have been involved in conservation projects and environmental issues since our incorporation in 1978, and many of our members have witnessed the pollution of Whitewood Creek and can remember the fish advisory issued in the late 1970's resulting from high mercury levels in fish of the Cheyenne River arm of Lake Oahe. At our November 18, 2004 membership meeting our members voted unanimously in favor of your preferred alternative #6. We have only two additional issues with the plan.

2c First, allowing County Commissions or Conservation Districts to veto land acquisitions which otherwise meet the plan requirements is unacceptable. It not only strips landowners of their right to sell property to buyers of their choice but also subjects public agencies, who represent a greater public interest, to the parochial, anti-government mentality so pervasive in western South Dakota these days.

9 Second, and this is a minor point, the title of the plan should use the word "Compensation" not "Restoration." This is not only the word used in the "Comprehensive Environmental Response, Compensation and Liability Act of 1980," but is more descriptive of your plan. By example, your second alternative to actually "restore" contaminated lands is rejected and not even analyzed. It simply confuses the reader to use the word restoration in the title.

Thanks again for this opportunity and for the efforts you and the agencies you represent are doing to offset the horrendous damages that were caused by 100 years of toxic pollution to the Whitewood Creek watershed.

21 Sincerely,

  
Robert Hanten  
Conservation Chairman  
cc Nation Audubon Society

# Butte County Commissioners

November 29, 2004

Shelly Deisch  
Restoration Coordinator  
3305 West South Street  
Rapid City, SD 57702

Dear Ms. Deisch:

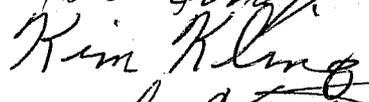
10 We have reviewed the draft conceptual restoration plan. After careful consideration, we are unable to support any of the action alternatives, including Alternative 6, the preferred alternative. The only alternative we can support at this time is Alternate 1, the no-action alternative.

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7a In our view, cleaning up dangerous situations that currently exist or that may manifest themselves in the future should be the priority for the Homestake Mining Company Natural Resource Restoration Fund (HMC-NRRF) funding, not acquisition of land that is not related to injured resources. We recommend that the HMC-NRRF funds be put in trust. The interest from that fund could then be used to monitor conditions on those lands identified as having injured resources. When the need arises to have hands-on clean up and restoration of critically contaminated areas, the principal of the fund could be used to pay for such efforts. Those efforts, however, would have to be articulated in a written planning document and be subject to the approval of the impacted county commissions and conservation districts. A limited term should be imposed on those efforts as well so that when the goals of the project are met, the funding will cease for that specific project.

Sincerely,

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Butte County Commission  
Stanley J. Harms, Chairman

Commissioners:


542 Shoshone St.  
Powell, WY 82435  
November 13, 2004

Shelly Deisch  
Restoration Coordinator  
3305 West South Street  
Rapid City, SD 57702

Comment on Draft Plan: HMC NRRF

3c Since I am Firewise Chairman for the Spearfish Canyon Owners Association, I have been contacted for my comment on the plan. I don't know if Spearfish Canyon can qualify for funds or not, but I thought I could present some problems that have occurred as the result of mining in the area particularly the Homestake Mine and the claims they owned in Spearfish Canyon. My cabin site was a mining claim and was taxed as such and I leased my site from them for many years. About 10 years ago we purchased the lot from the mine in the land exchange project and so there are many private owners on these claims. Most of the cabin owners in the canyon have done the same. There are 196 cabins that participated in this exchange that are Spearfish Canyon Owners Association members. These members would be willing members to canyon help problems.

Now, there are some serious problems in the canyon that formerly was taken care of by the Homestake Mining people. First, and foremost is the dangerous possibility of wildfire in the canyon. Despite the efforts of the cabin owners to make their properties Firewise on the 1,000 acres they own, there is 7,000 more acres adjacent to the properties owned by the Forest Service. Some progress is being made by the Forest Service, but very slowly. I am referring to the unhealthy overgrown forest with extreme amounts of deadfall from windstorms in the canyon. Some cleanup has begun both on private properties and some of the forest, but the danger is still very present. Homestake had in years past done some thinning in the canyon and carefully watched the stream as the water and water rights were extremely necessary for mining in Lead and well as producing electricity for the pumps in the mine. Even though the mine is no longer operating the water has been put back in the stream somewhat, but with the drought and the lack of logging and thinning the forest is choking the water in the stream. The Springs are drying up and for example Raspberry Gulch used to have water running in it all the time. The entire forest needs attention to restore water to the stream!

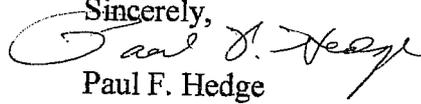
20 Another problem is the litter and garbage that is really choking the beauty of the canyon. Some caretaker walkers and local collection people have helped, but Homestake used to have garbage cans and pickup weekly in the canyon particularly at picnic sites. This is no longer happening. We need this done as requested in the Landscape Assessment plan of the Forest Service. It is on record there and could be looked at for comment on things that need to be done.

I feel that the Canyon could qualify to be improved as a result on the use of it for mining purposes and I believe the canyon cabin owners would agree.

21

Thanks for asking for my input.

Sincerely,

A handwritten signature in cursive script that reads "Paul F. Hedge". The signature is written in black ink and is positioned above the printed name.

Paul F. Hedge



Chris Hesla, Executive Director  
PO Box 7075 • Pierre, SD 57501  
Telephone & Fax: (605) 224-7524  
E-Mail: [sdwf@pie.midco.net](mailto:sdwf@pie.midco.net)  
*Affiliated with National Wildlife Federation*

November 28, 2004

Shelly Deisch, Restoration Coordinator  
Game, Fish and Parks  
3305 West South Street  
Rapid City, SD 57702

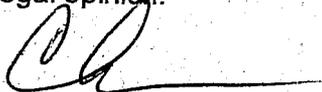
Dear Shelly:

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Based on State legislative happenings last year, there is the high likelihood of several legislative initiatives and/or bills impacting GFP in the upcoming session. The November 1, 2004, addendum that concerns us is the one that proposes that land acquisition and conservation easement using these funds must be proposed to and seek approval of the County Commission and Conservation District in the county in which the land occurs. Let us remind you of attempts in several past years by landowner groups and legislators to curb land acquisition programs with GFP, including an attempt to block GFP from buying land unless you had legislative approval. And, there were attempts and are going to be more attempts in the up-coming Legislature to stop any private landowner from putting perpetual conservation easements on his/her own land.

Your Draft Plan proposes, by law, to take settlement funds and use them for the good of the entire general public of South Dakota for which it should be, for the good of every citizen of this state. To bend to the wishes of a handful of County officials that operate in the realm of creating and maintaining fear and who attempt to justify their demands based on some unproven theory that their own property rights are being trampled, is a travesty. To bend to their whims is irrational and contrary to the purpose of this restoration plan and it should not happen.

2C  
Private property rights are a matter of law, not some handshake agreement. With all due respect, your concession appears to be a potential infringement upon a landowner's right to willingly sell his/her land to whomever he/she wishes at whatever price and whenever he/she wants. In fact, it raises the question as to how the State and Counties can rise above the fiduciary relationship among real estate agents, buyers and sellers when these matters are not for public involvement unless all parties agree to make it public. Your Plan now, nor the November addendum did not show any legal authority or legal guidelines given to you in law to make such an agreement.

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In closing, we agree with the Draft Plan to use settlement funds for permanent protection and conservation of lands for ALL the citizens of South Dakota, as proposed in Alternative 6. While we believe it is beneficial to hold town meetings and let citizens know that a land purchase will take place, we think it is a bad precedent that any government agency, private interest group or private property owner would have to seek approval of a County Commission and Conservation District to purchase land or to form easements. This does nothing more than to demonstrate reactionary measures which are counter-productive. We believe your concession will cause loss of very valuable riparian habitat acquisitions or projects because conservation-minded people may not be willing to combat their neighbors and enter disputes over property rights PRIOR to completion of the transaction. We think it would behoove you to completely strike this concession in the Final Draft and seek legal opinion.

21  
  
Chris Hesla

*"Working to preserve South Dakota's hunting & fishing heritage!"*

**Comments to: DRAFT CONCEPTUAL  
RESTORATION PLAN FOR  
WHITEWOOD CREEK  
AND THE BELLE FOURCHE AND  
CHEYENNE RIVER WATERSHEDS,  
SOUTH DAKOTA**

**PREPARED BY: Brent Hoffman  
11-24-2004**

5

The goals of this conceptual draft are intentionally vague. Section 7.2 states "The first alternative is natural recovery and the other alternatives are conceptual in nature. Two themes are considered. Restoration of lands contaminated by waste discharges from Homestake mine vs. restoration of uncontaminated lands." My first question is, How do you restore lands that were not damaged in the first place and are essentially pristine now?

9

Section 7.2.1 basically says, "because natural recovery does not spend allocated funds it is not acceptable." It also goes on to state, "Private management of riparian areas within the restoration site would not approximate, much less fulfill the plan's goals or objectives." This statement is a slap in the face to private landowners.

Many farmers and ranchers are at least as well educated as government land managers. It is common for them to have 4-6 yr. degrees in animal and range sciences, biology or other related fields. Private land owners often have generations of experience in managing ecosystems under their control. They are ultimately responsible for the land they manage and they would not have it any other way. They have an intimate relationship with the land. They have to live with the decisions they make, literally. The money they spend has value to them because they earned it. They will not throw money at a project merely because someone allocated it. Landowners have a personal stake in every aspect of land health and productivity. It is their livelihood. Often the land cared for is a family heirloom and is highly cherished. Landowners not only understand the ecosystems; their families know its history. A healthy, productive ecosystem pays the bills. They know if you improve the land, wildlife as well as livestock will benefit. When you have a family to feed, margins are tight, competition is fierce, and the money you spend is your own, there is every reason to strive for excellence.

1

Also in regards to the statement "Private management of riparian areas within the restoration site would not approximate, much less fulfill the plan's objectives." Just what goals and objectives are we talking about here and why wouldn't private ownership achieve them? Is the goal of this plan to take more land from the people of South Dakota?

3

10, 11

This plan considers fencing to exclude large herbivores. Much of the land in question here is in small parcels located in the base of a flood plain. Fences constructed here would only last until the first significant spring run-off. After flooding, the fences would be litter. This land evolved with the influence of large herbivores. To exclude them from any restoration proposal would be short sighted and unholistic. Many of the stated goals of recontouring and revegetating could be accomplished using large herbivores.

12

Another consideration of this proposal is the obliteration of roads to keep people out. People have been a part of this ecosystem for over 9000 yrs. To deny access to the very people the "trustees" are supposed to represent is both heavy handed and tyrannical.

13

This plan mentions considerations of previous cultures and effects on archeological artifacts. This is all well and good but it does not consider the effects of this proposal on the existing culture. By federalizing private lands, you destroy functional businesses that provide jobs to our people. Our children's schools have less money because it erodes the tax base. Our families are forced from a wholesome environmentally friendly way of life only to become part of the problem of urban sprawl.

18

8

1  
10c

The restoration draft portrays this vast watershed as if it were a barren toxic waste dump desperate for government intervention. Nothing could be farther from the truth. Toxic emissions from Homestake Mine ceased nearly 30 years ago. Since that time Mother Nature has done a miraculous job of healing itself. Private ownership has contributed to this recovery. In closing, for this proposal to be a success and a value to the community it must meet the following criteria:

2c  
7, 10c, 11

8, 22  
2, 3, 7

10c, 11

- 1. There must be no net loss of private land
- 2. Land owners must not be coerced in to trading land
- 3. Property rites of the land owners involved must not be infringed in anyway
- 4. All land must stay on the tax roles
- 5. All governmental agency's must work in conjunction with the private land owner
- 6. No money will be spent which will lead to the erosion of private land owners rites to use their land in any way
- 7. Private landowners must be able to control access to their land.

21



## BLACK HILLS FLY FISHERS

---

Everett E. Hoyt, Treasurer  
4422 Carriage Hills Drive - Rapid City, SD 57701  
605-343-2707

November 29, 2004

Ms. Shelly Deisch  
Wildlife Biologist  
SD Dept Game, Fish and Parks  
3305 West South Street  
Rapid City, SD 57702

Re: Draft Conceptual Restoration Plan for Whitewood Creek  
and the Belle Fourche and Cheyenne River Watersheds,  
South Dakota

Dear Ms. Deisch:

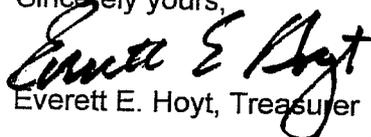
On behalf of the 300 members of Black Hills Fly Fishers ("BHFF"), and on behalf of myself as an individual, we submit the following comments on the above referenced "Draft Conceptual Restoration Plan for Whitewood Creek and the Belle Fourche and Cheyenne River Watersheds, South Dakota, dated September 29, 2004 (hereinafter the "Draft Conceptual Plan").

21 We believe the Draft Conceptual Plan to be quite thorough and well written, and after review of the Considered Alternatives presented BHFF and I support Considered Alternative 6, the Preferred Alternative. We believe that Alternative 6 provides the best remedy for the restoration of a myriad of losses sustained by the public as a result of damages to Whitewood Creek by discharges by Homestake Mining Company. We believe that "restoration, enhancement and/or permanent habitat protection achieved through fee title interest. . . and subsequent management by an appropriate State, Federal, county, non-profit or other public ownership entity" affords the highest likelihood of successful restoration for the losses sustained.

3C We in BHFF are most concerned that the restoration focuses in large part on acquisition, development, and enhancement of fisheries habitat in the specified watersheds in the Black Hills region. We concur in and support the suggested courses of action to restore fisheries presented in Preferred Alternative 6, as outlined at page 48 of the Draft Conceptual Plan.

We would appreciate your filing these comments in support of Alternative 6, as the Preferred Alternative, and we would appreciate your placing BHFF and myself on the list of affected parties for notice of future proceedings regarding the Draft Conceptual Plan.

Sincerely yours,

  
Everett E. Hoyt, Treasurer

**MELLETTE COUNTY COMMISSIONERS  
MELLETTE COUNTY COURTHOUSE  
PO BOX C  
WHITE RIVER, SD57579  
PHONE 605-259-3291**

November 30, 2004

Shelly Deisch, Restoration Coordinator  
3305 West South Street  
Rapid City, SD 57702

To Whom It May Concern:

The Mellette County Board of County Commissioners met on November 23, 2004 and discussed the Draft Conceptual Restoration Plan for Whitewood Creek and the Belle Fourche and Cheyenne River Watersheds.

The Mellette County Board of County Commissioners wishes to offer their support and agreement with the Stockgrowers Association comments to the Game, Fish and Parks. The comments are as follows:

1  
4  
6/10 None of the alternatives offered in the Draft Conceptual Restoration Plan for Whitewood Creek and the Belle Fourche and Cheyenne River Watersheds address the underlying problem that the mine may continue to negatively affect the public and the environment. Therefore we cannot support any of the alternatives and we further demand the termination of the proposed restoration plan.

2a,b The Game, Fish and Parks Secretary should not carry the burden of responsibility for the public's welfare and should not be saddled with the responsibility of administering the funds allocated to restore the contaminated property.

1  
2 While the consent decree does grant the possibility of property acquisition, and/or other means of property control (i.e.: easements), it does not, by any means, require it. Until all potential threats from the existing property are removed to the public's satisfaction, the allocated funds should be held in a trust account to be used strictly for restoration of the affected resources, and shall be administered by an entity dedicated to the public welfare.

1  
9

Until the original problem is resolved, no additional property or resources should be sought. Future problems remain to be seen, and without proper funding would remain unattended and harm the public, specifically the local public.

1

The state shall clarify the party responsible for the contaminated land.

1,2,3  
7

Any restoration plan should be authored by the directly affected public and their local governments such as townships and county commissions. These entities are cooperating agencies and shall be included.

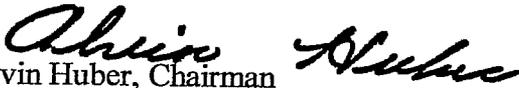
3,7

Potential cooperating partners as listed in Appendix 4 of the draft plan and other affected parties were not included in the process of its development nor were they aware of the existence of the draft plan until its release for comment just prior to October 1.

21

The Mellette County Board of County Commissioners offer this support because they feel this should be a concern to all the citizens of South Dakota, whether they live in the local or not.

Sincerely,



Alvin Huber, Chairman  
Mellette County Board of County Commissioners

AH/jd

**Deisch, Shelly**

**From:** Dean R Johnson [the7cross1@juno.com]  
**Sent:** Sunday, October 31, 2004 9:20 PM  
**To:** shelly.deisch@state.sd.us  
**Subject:** public comments



**Julies**

**tter.doc (37 KB)**

October 29, 2004

Whitewood Creek Restoration Plan Coordinator

8 I sat down to read your Cheyenne River, Belle Fourche River and Whitewood Creek Watershed report and became so infuriated I had a hard time focusing! This report is not about "enviromental protection", this is about CONTROL. I am tired of government agencies dictating with my tax dollars. This must STOP.

11 The proposals put forward in this report boarder on Communism. My family and I own and operate a ranch in this watershed as does EVERY other rancher in Western South Dakota and parts of Wyojming. This proposal if followed through with would drive us from the land we work on as well as the very homes we live in. The fact that you have only allowed a 7 comment peroid to November 1, 2004 is an outrage. A plan of this magnitude must be studied for years before being implemented, and then ONLY if it is found to be based on sound silence.

I found byself unable to coment on each aspect of this ridiculous report, I am attaching a copy of a letter I received from Julie Smithson. She has expressed perfectly how I feel about this entire report.

11 The individuals involved with this document should all be fired.  
Government agencies were put in place to protect our rights, not take them away.

21 Dean and Delia Johnson  
HC58 Box 13A  
Fairburn SD 57738  
The7cross1@juno.com

**Deisch, Shelly**

---

**From:** Kalil, David [KalilD@FCSAmerica.com]  
**Sent:** Monday, November 29, 2004 8:35 AM  
**To:** shelly.deisch@state.sd.us  
**Subject:** Water Project for Western SD

1  
23  
19  
Shelly I agree with the stockgrowers position on not using fund money to try to purchase land. Buying the land is not the answer to cleaning up the environmental mess that the Homestake mine has left behind. Also it further aggravates a problem that the GF&P does not seem to want to recognize namely the public relations issues that continue to plague Western SD. Please use my comments as a definite "no" to approving any use of clean up funds to purchase property. Thank You very much.

21  
David Kalil

\*\*\*\*\*

This communication may contain privileged information intended solely for the recipient. It may not be used or disclosed except for the purpose for which it has been sent. If you are not the intended recipient, you must not copy, distribute or take any action in reliance on it. Unless expressly stated, opinions in this message are those of the individual sender and not of Farm Credit Services of America. If you have received this communication in error, please notify the sender and delete the message and any attached documents.

\*\*\*\*\*

The restoration plan for the watersheds of the Whitewood Creek, Belle Fourche and Cheyenne Rivers does not address the problem created by the hazardous substances released by the mine. Purchases of uncontaminated lands does not restore damages that have already occurred, and cause large economic losses to individuals in the affected area.

Losses to these individuals will only be compounded by purchases of land in these watersheds. These losses have affected the economic well being of the public in these areas. Until the original problem is resolved, no additional property or resources should be sought.

Any restoration plan should be authored by the directly affected public and their local governments such as townships and County Commissions. These entities are cooperating agencies and shall be included.

Thank You  
Bill Huck



# CITY OF SPEARFISH

625 5<sup>th</sup> STREET, SPEARFISH, SOUTH DAKOTA 57783

Mayor Jerry A. Krambeck  
625 5<sup>th</sup> Street  
Spearfish, South Dakota

John Cooper (Fax 605-773-6245)  
South Dakota Department Game Fish and Parks  
523 East Capitol Avenue  
Pierre, South Dakota 57501

RE: Land Purchase in Spearfish Canyon

Dear John:

17

I strongly support the State of South Dakota proposed purchase of the Spearfish Canyon properties offered for sale by Homestake Mining Company.

21

Homestake Mining Company has the reputation of being good stewards of the canyon for over 100 years. I feel that the only way to perserve its integrity is to put it all into public ownership. There are so many benefits that will be accomplished with the ownership with the State of South Dakota. I admire you and your staff for your vision.

Sincerely

Mayor Jerry A. Krambeck

November 29, 2004

Shelly Deisch  
3305 West South St.  
Rapid City, SD, 57702

Ms. Deisch:

1  
9 Thank you for the opportunity to comment on the Restoration Plan. Alternative # 2: Restoration and protection of lands with significantly contaminated sediments seems most logical. This money was granted to restore and clean up contaminated land. Page 40, paragraph 2 says: "The trustees are committed to spend monies on restoration." Any other alternative would be a conflict of the plans' own stated purpose.

I know it could cost more than you have, but common sense doesn't require you to spend more than the judgment provided. Studies have been done and you know which areas are most polluted and which are in most danger of runoff erosion from storms. As trees continue to die from bug infestation and overpopulation, the chance of catastrophic fire escalates. This increases the danger of major water erosion in the area.

1 Common sense says that not using the money for reclamation as it was intended will insure litigation! You may not be using tax money for the project now, but after it is spent who pays when you lose lawsuits?

10  
1 Number 2 seems the most logical but I like number 1 the best! Do nothing. You'll be cussed and criticized no matter what you do and I don't envy your job! The most diplomatic plan seems to me to give the money to the school lands fund. Let the money stay in the fund and give the interest each year to the schools. You'll come out looking like Santa Clause because no one can criticize helping kids!!

The worst plan is Alternative # 6. Buying more land in the name of the GF& P is a lose/lose plan!

2c, 8  
22 1. The counties lose tax base. (Meade County has an ordinance prohibiting a gain in government held land. If you buy land, you must sell an equal number of acres in Meade County.)

18 2. The agricultural infrastructure will suffer from less production or grazing acres. Agriculture is the number one industry in South Dakota and the infrastructure in the western half is already threatened.

19 3. Relations with surrounding land owners will deteriorate and the GF&P already has a major public relations problem in western South Dakota.

11  
12  
19 4. The people who live along these streams were the only ones who were really hurt. Taking away their grazing land and giving it to a bunch of hunters who were never effected at all is unthinkable!! Some hunters believe that more state owned land means more land for them to hunt on. Sadly, they don't understand that they could hunt on nearly all private land if they would just show landowners the same respect that they expect on their property. The GF& P has been encouraging this battle between sportsman and landowners for years to justify buying more land. If they really cared about the sportsmen they would work to improve relations between the two groups.

21 Thank you again for letting me comment and I hope you will consider my thoughts in your final decision!

Sincerely  
*Anita Lee*  
Anita Lee  
15870 209th Place  
Sturgis, SD, 57785  
605-985-5984

**Deisch, Shelly**

**From:** Carrie Longwood [carrie.sdsga@midconetwork.com]  
**Sent:** Wednesday, December 01, 2004 10:05 AM  
**To:** shelly.deisch@state.sd.us  
**Subject:** comments - Draft Conceptual Restoration Plan for Whitewood Creek and the Belle Fourche and Cheyenne River Watersheds

Shelly Deisch  
 Restoration Coordinator  
 3305 West South St.  
 Rapid City, SD 57702  
 Sent via e-mail: [shelly.deisch@state.sd.us](mailto:shelly.deisch@state.sd.us)

December 1, 2004

Ms. Deisch,

The South Dakota Stockgrowers Association appreciates the opportunity to comment on the Draft Conceptual Restoration Plan for Whitewood Creek and the Belle Fourche and Cheyenne River Watersheds.

The state's largest and oldest cattle organization members, our 1,500+ members are primarily cow-calf producers operating family ranches.

The South Dakota Stockgrowers Association is committed to representing the needs of individual cattle producers in regard to property rights, animal health, trade, marketing and environmental issues. Our focus is profitability for the individual rancher.

**Comments:**

The South Dakota Stockgrowers Association respectfully submits the following comments in regard to the proposed plan:

- 1  
4  
6,10 • None of the alternatives offered in the Draft Conceptual Restoration Plan for Whitewood Creek and the Belle Fourche and Cheyenne River Watersheds address the underlying problem that the mine may continue to negatively affect the public and the environment. Therefore we cannot support any of the alternatives and we further strongly encourage the termination of the proposed restoration plan.
- 2a,b • The Game, Fish and Parks Secretary should not carry the burden of responsibility for the public's welfare and should not be saddled with the responsibility of administering the funds allocated to restore the contaminated property.
- 1,2 • While the consent decree does grant the possibility of property acquisition, and/or other means of property control (ie: easements), it does not, by any means, require it. Until all potential threats from the existing property are removed to the public's satisfaction, the allocated funds should be held in a trust account to be used strictly for restoration of the affected resources, and shall be administered by an entity dedicated to the public welfare.
- 1 • Until the original problem is resolved, no additional property or resources should be sought.

12/1/2004

Future problems remain to be seen, and without proper funding would remain unattended and harm the public, specifically the local public.

- The state shall clarify the party responsible for the contaminated land.
- Any restoration plan should be authored by the directly affected public and their local governments such as townships and county commissions. These entities are cooperating agencies and shall be included.
- Potential cooperating partners as listed in Appendix 4 of the draft plan and other affected parties were not included in the process of its development nor were they aware of the existence of the draft plan until its release for comment just prior to October 1.

We urge you to contact us with any questions.

Thank you,

Ken Knuppe

Carrie  
Carrie Longwood  
Executive Director  
South Dakota Stockgrowers Association  
605-342-0429  
426 St. Joseph  
Rapid City, SD 57701  
[www.southdakotastockgrowers.org](http://www.southdakotastockgrowers.org)

Meade County  
Board of County Commissioners  
1125 Sherman  
Sturgis, SD 57785  
605-347-2360

November 23, 2004

Shelly Deisch  
Restoration Coordinator  
3305 West South Street  
Rapid City, SD 57702

RE: Draft Conceptual Restoration Plan for Whitewood Creek and the Belle Fourche and  
Cheyenne River Watersheds, South Dakota

Dear Ms. Deisch:

21  
2c We appreciate the Governor Directed Clarifications or Addendums to the Draft Plan,  
dated November 1, 2004.

10 We have reviewed the draft conceptual restoration plan. After careful consideration, we  
are unable to support any of the action alternatives, including Alternative 6, the preferred  
alternative. The only alternative we can support at this time is Alternative 1, the no-  
action alternative.

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7A In our view, cleaning up dangerous situations that currently exist or that may manifest  
themselves in the future should be the priority for the Homestake Mining Company  
Natural Resource Restoration Fund (HMC-NRRF) funding, not acquisition of land that is  
not related to injured resources. We recommend that the HMC-NRRF funds be put in  
trust. The interest from that fund could then be used to monitor conditions on those lands  
identified as having injured resources. When the need arises to have hands-on clean up  
and restoration of critically contaminated areas, the principal of the fund could be used  
to pay for such efforts. Those efforts, however, would have to be articulated in a written  
planning document and be subject to the approval of the impacted county commissions  
and conservation districts. A limited term should be imposed on those efforts as well so  
that when the goals of the project are met, the funding will cease for that specific project.

Sincerely,

21  
Robert Mallow  
Robert Mallow  
Chairman

Sincerely,

Craig Shaver  
Craig Shaver  
Natural Resource Committee

cc - Governor Mike Rounds  
Representative Larry Rhoden  
Representative Tom Brunner  
Senator Ken McNenny

November 12, 2004

ATT.: Shelly Deisch  
Whitewood Creek Restoration Plan Coordinator  
South Dakota Department of Game, Fish and Parks  
3305 West South Street  
Rapid City, South Dakota 57702

Dear Ms Deisch:

17 The Spearfish Canyon Fire Department fully endorses the purchase of the properties in Spearfish Canyon that Homestake Mining Company proposes to sell to the State of South Dakota for public use.

21 We fully approve management of the property by the South Dakota Department of Game, Fish and Parks.

Thank you,

*Jim McGinnis*

Board of Directors  
Spearfish Canyon Fire Protection District

Jim McGinnis, President  
Arlendo Lillehaugh  
Jim Chandler  
Ray Rossi  
Jack Wanstedt

Spearfish Canyon Fire Protection District  
21193 US Highway 14A  
Lead, SD 57754  
(605)584-2179

**SPEARFISH CANYON  
PRESERVATION TRUST  
12 Lincoln Avenue  
Deadwood, SD 57732  
605/578-1037**

November 9, 2004

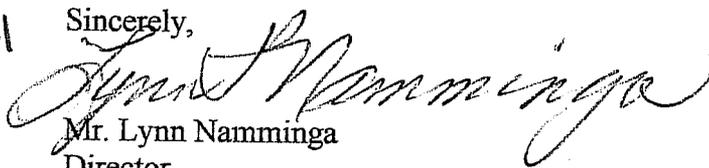
Ms. Shelly Deish  
Regional Director Game, Fish, and Parks  
Dept. 6FP  
Regional Office  
3305 West South St  
Rapid City, South Dakota 57702-8106

Re: GF&P purchase of property in Spearfish Canyon

Dear Ms. Deish:

17 In keeping with its primary goal of preserving the beauty and environmental integrity of Spearfish Canyon, the Spearfish Canyon Preservation Trust Board of Directors unanimously encourages GF&P to purchase any and all property in Spearfish Canyon that becomes available for sale by Barrick Mining Company (Homestake Mining Co.).

21 Sincerely,



Mr. Lynn Namminga  
Director  
605/578-1037  
bigdutch@mato.com

**Larry Nelson**

---

**From:** "Larry Nelson" <ljnranche@sdplains.com>  
**To:** <shelly.deisch@state.sd.us>  
**Cc:** <Shelly Deisch>; <Restoration Coordinator>  
**Sent:** Monday, November 22, 2004 8:21 PM  
**Subject:** Draft Conceptual Restoration Plan for Whitewood Creek and the Belle Fourche and Cheyenne River Watersheds

Shelly Deisch, Restoration Coordinator  
3305 West South Street  
Rapid City, SD 57702

Dear Ms. Deisch:

I am writing to comment on the Draft Conceptual Restoration Plan for Whitewood Creek and the Belle Fourche and Cheyenne River Watersheds. It is my understanding that the court settlement between Homestake Mine and the State of South Dakota releases Homestake Mine from future liability with South Dakota for the contamination of the above mentioned watersheds in exchange for a monetary settlement. It is my further understanding that South Dakota working through Game Fish and Parks will use this money to buy land to "repace" land contaminated by Homestake Mine. If Homestake Mine has no further liability to South Dakota and the monetary settlement has been spent purchasing land, who is responsible for cleanup and rehabilitation and where is the money going to come from to pay for cleanup and rehabilitation if more environmental problems develop in the future along these watersheds which are under public ownership to the high watermark? South Dakota should not put its citizens in the position of having to deal with a multinational corporation as individuals. These monies should not be used to purchase land. The money from this settlement should be placed in escrow and only used for cleanup and restoration on these watersheds as necessary to protect the adjacent landowners and the citizens of South Dakota from any future environmental problems that may develop.

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9, 23  
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Sincerely,



Larry Nelson  
HC 66B Box 151  
Buffalo, SD 57720

21

Shelly Deisch  
Restoration Coordinator  
3305 West South Street  
Rapid City SD 57702

Comments from the Black Hills Sportsmen's Club

2c  
3.7  
3c  
Thanks very much for your well-done presentation at our last membership meeting. The board of directors has met to discuss the project and we agreed whole heartedly to support the Governor and the rest of the cooperators on the project. We are hoping that we will still have the privilege to review and evaluate each land purchase or easement. The BHSC support the use of perpetual easements as an excellent tool to protect our valuable resources. We are excited about public access to a great fishery and the thought of protecting these areas forever.

21 These existing funds must be used to protect other watersheds that have not already been damaged and thus we support Alternative 6.

Jeffrey G. Olson  
Pres. Black Hills Sportsmen's Club



# FALL RIVER COUNTY COUNTY COMMISSIONERS

COURTHOUSE  
906 NORTH RIVER ST  
HOT SPRINGS, SOUTH DAKOTA 57747  
PHONE: (605) 745-5132

December 1, 2004

Via facsimile: 1-605-394-1793

Shelly Deisch  
Restoration Coordinator  
3305 West South Street  
Rapid City, SD 57702

Dear Shelly:

The Fall River County Commission has reviewed the Draft Conceptual Restoration Plan for the Whitewood Creek and the Belle Fourche and Cheyenne River Watersheds. Fall River County has numerous concerns about the wisdom of the Plan.

1,4 First, none of the alternatives address the prospective, potential adverse environmental impacts of the Homestake Mine.

1  
2 Second, because prospective environmental impacts of the Homestake Mine have most likely not been realized, we believe the allocated funds for environmental restoration should be held in a trust fund to assure that the taxpayers are not further obligated to clean-up environmental contamination. The trust fund should be administered by a public body accountable to the people of the state of South Dakota, not an unelected, autonomous bureaucracy.

9  
23 Third, the alternatives provide for the acquisition of lands outside the affected, contaminated areas. The Consent Decree allows for acquisitions, however, it does not require acquisitions. Fall River County understands the interest in restoration of affected lands. On the other hand, Fall River County adamantly opposes the acquisition of easements and lands outside of the environmentally affected areas. Further, Fall River County absolutely opposes the acquisitions of land in Fall River County, as the watersheds of Fall River County were not adversely impacted. We see no valid reasons for the use of these monies for the acquisitions of easements or any other interests in property in Fall River County as part of the Whitewood Creek restoration.

1 Fourth, the State of South Dakota should clarify the responsible party for any contamination of the state's natural resources.

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7

Fifth, any restoration plan should be authored by the local governments adversely impacted. The local governments should be able to access the cooperation and expertise of the State of South Dakota in promulgating such plans. Regional and joint plans with the state are also desirable, if requested by the local governments.

5

In conclusion, Fall River County is opposed to the Draft Conceptual Restoration Plan for the above-mentioned watersheds. The alternatives are too broad and give too much discretion to the bureaucracy of the State of South Dakota. Local governments are an essential ingredient in any such project, and we believe this plan is too top-down driven. Further, we do not believe this plan is in the best interests of the citizens of Fall River County. Therefore, we request that the State of South Dakota start over and redraft the plan with meaningful cooperation with the affected local governments.

6

2

Sincerely,



Michael P. Ortner, Chairman

21

**Deisch, Shelly**

---

**From:** Black Hills Portal [scott@blackhillsportal.com]

**Sent:** Wednesday, December 01, 2004 3:46 PM

**To:** 'Deisch Shelly'

**Importance:** High

Dear Shelly,

7  
1  
So is Mr. Shavers request our Chairman of the NR Committee going to get his way and get an extension on the comment period. I to wish this comment period was extended. I would like more to look into the pollution problems and have opportunity to address other concerns I have too. I'm still working on finalizing my comments.

**Scott L. Prentice**

Director of Operations

**BlackHillsPortal.com**

PO Box 9

Deadwood SD 57732

605-584-2824

605-209-6932 (Cell)

866-735-4866 (Toll Free)

Attached \*.vcf file - Outlook Business Card

21  
12/3/2004

14599 SD Highway 34  
Sturgis, SD 57785  
November 26, 2004

Shelly Deisch Restoration Coordinator  
3305 West South Street  
Rapid City SD 57702

Dear Ms. Deisch:

1  
2 Settlement money awarded to the State of South Dakota from Homestake Mining Company should be kept on reserve in a fund to protect the state from future lawsuits related to soil contamination by Homestake. It should not be given to the Department of Game, Fish and Parks to buy or trade land for parcels of land along Whitewood Creek and the Belle Fourche River.

11 The Department of Game, Fish and Parks wants more land to control for hunting and recreation but they won't do anything to cut down on contaminated soil. They have a history of not taking care of the land they acquire and could create a real headache for the State of South Dakota with noxious weeds and pampas grass getting worse along the tributaries and exposed contaminated areas showing up that need a lot of work.

1  
4 Keep the settlement money in the National Resource Restoration Fund which would earn enough interest each year to monitor and clean up a few exposed contaminated areas where necessary. If a big flood exposes too much area that needs stabilizing part or all of the fund could be used to protect the State of South Dakota from lawsuits and regulations of the federal government.

1, 2 I hope you will realize how dangerous it would be to give money to the Game, Fish and Parks that should be kept in a reserve fund to protect the state against future federal regulations and lawsuits.

21 Sincerely,

*David Richards*

David Richards

**Deisch, Shelly**

---

**From:** Marlene Barrett [mbarrett@lawrence.sd.us]

**Sent:** Monday, November 29, 2004 4:52 PM

**To:** shelly.deisch@state.sd.us

**Subject:** Comments on Draft Restoration Plan

Shelly: Jim Seward, Lawrence County Commissioner, would like to submit the following comments regarding the Draft Conceptual Restoration Plan for Whitewood Creek and Belle Fourche and Cheyenne River Watershed:

8  
1,4  
20  
I do not want to see any more private land going to the State, thus removing it from the property tax rolls. Over half of the land in Lawrence County is already owned by federal or state government.  
The monies received should go to restore the affected area to insure no future threat to anyone.

Thank you, *James J. Seward*, Lawrence County Commissioner

21

**Deisch, Shelly**

---

**From:** Julie Smithson [propertyrights@earthlink.net]  
**Sent:** Sunday, October 24, 2004 10:59 PM  
**To:** shelly.deisch@state.sd.us  
**Subject:** My Official Public Comments on the Draft Conceptual Restoration Plan ...

**My Official Public Comments on the Draft Conceptual Restoration Plan for Whitewood Creek and the Belle Fourche and Cheyenne River Watersheds, South Dakota, as currently publicized at this Internet URL/website address:**  
<http://www.sdgifp.info/NRDADraftPlan.pdf>

October 24, 2004

To: [shelly.deisch@state.sd.us](mailto:shelly.deisch@state.sd.us), "Whitewood Creek 'restoration plan coordinator'"

From: Miss Julie Kay Smithson  
 213 Thorn Locust Lane  
 London, Ohio 43140  
[propertyrights@earthlink.net](mailto:propertyrights@earthlink.net)

I hereby instruct you to accept and make public EVERY WORD of my public comment and immediately add me to the mailing list to receive, in hard copy form, "every piece of work" that this abomination of a "plan" generates.

7 For all those fine folks who have not had time to get a handle on what you're actually doing in this "document", I first want to demand that you -- if not immediately TRASH this entire control scheme, plan and "document" -- at least **extend the "comment period" by ninety (90) more days**, to give generational land stewards time to respond to this "document" and also enjoy the Thanksgiving and Christmas seasons. Make the deadline February 1, 2004. My first recommendation, though, is to TRASH this deceitful and illegal "piece of work". After you extend the public comment period by ninety (90) more days, you may expect to receive a much longer and more detailed Official Public Comment from me, which is to be accepted IN ADDITION TO, not instead of, this Official Public Comment.

Real cowboys would disparagingly call this "document" a "piece of work", with palpable sarcasm dripping from every syllable. Like so many other "plans", "documents", etc., that cross my desk, this one skillfully uses words deliberately arranged in such a way that the reader's emotions are courted and his/her intellect is paralyzed. Most readers are ready to pack and take a guilt trip after reading no more than a few paragraphs, so carefully couched is this Trojan Horse of language deception -- most, but not all; many, but not as many as a year ago, five years ago.

20 I'll "comment" on this "document" and intersperse the pithy parts with the real intent: that all such "documents" be immediately sent back from whence they came and replaced by a copy of each of the following documents: the United States Constitution, Bill of Rights and

10/25/2004

Declaration of Independence, and all federal employees and appointees be required, in order to hold their jobs, to MEMORIZE every word of all three. Anyone not able to quote chapter and verse with no errors would immediately be directed to the exit and the end of the career in government, for which it would be readily apparent that he/she/they was never qualified for in the first place.

7  
11  
2c Page 47, referring to the "preferred alternative", goes brazenly off on this control freak tangent: "...permanent habitat protection and enhancement by state, federal or private land owners willing to enact perpetual agreements/easements. Despite ownership, the outcome is permanent protection and enhancement of lands not injured by contaminated sediments." Excuse me? Did the preparers of this "document" think it would be read in soviet Russia? This is, after all, still America, and to many hearts, minds and souls is still a Constitutional Republic, God-guided and governed. Spare me the jabbering about "separation of church and state", which is not in ANY of America's founding documents, but is rather a plank of the Communist Constitution. All those that still intend to follow such directives, please book the next passage to Russia -- I'll help you pack!

12c Referencing page 8 of this "document" mentions the Homestake Mine dumping slag into Whitewood Creek. Like the "Environmental Protection Agency" here in west-central Ohio continuing to belabor a small manure spill into manmade Fitzgerald Ditch in early 1995 -- as though it would never again run clear and clean -- is a lie made infinitely worse by the deliberate use of language deception and 'smoke and mirrors'. What happened in the years from 1877 to 1977 or whenever (pick a point in time -- you and your ilk are adept at that, like "European settlement"), lucid minds will realize that twenty-seven years of wind, rain, snow, sleet, mud, etc., have occurred where you seek to take perpetual control.

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11  
12c Nothing is static or suspended in time. Just as no tree is eternally "old growth" -- and no tree/plant/animal lives forever -- no land or water remains frozen in time. Rivers meander. Land goes through different 'soil quality' periods. Earthquakes, floods, ice ages, 'global warming', etc., HAPPEN. What Homestake did during the years of its existence in western South Dakota is not any kind of a valid reason to steal control of the lands and waters and ways of life from those living there now. I will do my level best to see to it that as many people as possible understand this and what you intend to do to the people of this part of South Dakota and Wyoming and their lands and waters.

Rather than calling it shoddy workmanship, I am reminded, instead of Gale Norton's notorious "four C's of 'conservation'", of "the four C's" of treason: cunning, crafting, conning and conniving -- for that is exactly what this "document" is.

14 Page 19 is an exercise in deceit, beginning with this statement: "A comprehensive list of known vertebrate, invertebrate and plant species within the Restoration Site is unavailable or unknown." Well, DUH! Of COURSE it is unknown! Species are not suspended at some point in time, and are always ebbing and flowing, growing -- to use one of your "buzzwords" -- more or less "diverse" constantly. Continuing on this same page and with this same line of deliberately nebulous rambling: "150 - 200 avian species, including migratory and wintering waterfowl, use waterways along the Belle Fourche River..." DUH, AGAIN! Immediately after stating that there is no "comprehensive list," you quote someone who plucks "150-200" out of thin air!

5 No one with any intelligence could possibly comment on a "document" that contains no set numbers or boundaries that can be commented on. You know this and so do I. In point of fact, this entire exercise in treason is not ABOUT "fauna and flora" or about "protecting" water or

land. It and others like it have NEVER been 'about' such things. Rather, the REAL 'prize' being aimed at is CONTROL: Control of ALL the land, ALL the water, ALL the people, ALL the freedom. Guess what? You're dreaming again. This is not what real life is about – never has been, never will be.

Continuing on page 19 and on into page 20, your "document" is guilty of waffle, waffle, waffle, between what is purportedly known to exist and be listed in "the watershed" and what you can only call "species of concern" -- which, again, renders intelligent and meaningful comments impossible, which is just as you intend. I quote: "the number of species documented by watershed is:

? 16 species of fish and 1 hybrid in Whitewood Creek

? 29 species of fish in the Belle Fourche River

? 45 species of fish in the Cheyenne River

20

? 4 species of fish are listed as State and/or Federal threatened, endangered or candidate or species of concern and **are known to occur or could occur** within the Site

? 5 anuran (frogs and toads) and one salamander (Peterson 1974, Fischer et al. 1999) species within the Site

? 3 turtle, 1 lizard (State rare) and 10 snake species (Peterson 1974) within the Site

? **Unknown number** of invertebrate species **but includes species of concern** such as Oreohelix snails, Regal Fritillary butterfly and American burying beetle.

? 10 species of plants are listed as State species of concern..." Hey, you know what? Because you put it on a "list" does not give ANYTHING credibility and in fact actually renders the emperor naked, because you think people will be duped into believing that "possible habitat", or some other statement resembling a house built on sand, is fact. In fact, it is fiction, and very bad fiction at that.

Page 49 ushers in this stalking horse sent to gut our freedom and property rights:

"Environmental consequence of this alternative would result in perpetual control and management authority over the land." What does it mean? It means that your intent is to TAKE all the control over lands and a way of life that:

1. You do not own.
2. You did not work for and have no blood, sweat and tears equity in.
3. You have no business trying to take under blatantly false and ILLEGAL pretenses.

Have I made myself clear? Your entire "document" is a criminal waste of good pulpwood and ink, hardworking people's time and is being used only to do something that, were we to do it to YOU, would land us in prison with the keys thrown away.

To "comment" on something that should never have seen the light of day -- much less be arrogantly presented to the public for "public comment" -- is a challenge, to say the least. There's no need to mince words. I call a spade a spade. This gut pile needs to have someone dig a hole and shovel it in and bury it deep. It is of no worth whatsoever to the health or well-being of ANY species of flora or fauna. It is trash and should be called such. Nowhere that the heavy heel of the federal government has trampled has been made better for the experience. Lands and waters that go under the control of government agencies and their partners in crime, such as The Nature Conservancy, whose list of "Last Great Places" is also (and NOT coincidentally) a list of United Nations Biosphere Reserves -- are NOT made better. The

federal taking of natural resources by deception is stealing America's wealth. Taking control of property rights is the stealing of America's and Americans' freedom. You know it and I know it. I EXPECT you to publish this Official Public Comment of mine in its entirety so that many more people will know it.

20 Quoting Marbury v. Madison 5 US (2 Cranch) 137, 174, 176, (1803) in part, which states that all laws which are repugnant to the Constitution are "null and void", **has never been repealed**. It is still part of the Law of my Land, America.

<http://usinfo.state.gov/usa/infousa/facts/democrac/9.htm>

If ever a "document" is repugnant to the Constitution of the United States of America, this one is it.

15 The "Finding Of No Significant Impact", or "FONSI", that you are so fond of issuing, which lies and tells the world that all the people and their ways of life will not be "significantly" economically impacted, is a moot point. I know and you know that this "document" is intended to destroy the people and their ways of life throughout more than three hundred miles of waterways. By use of the all-encompassing term "watershed", this document assures that not one drop of water or clod of dirt escapes your Control.

20 The "process, purpose and need" of this document and its tentacles (plans, agendas, etc.) is false. The entire agenda is to Control It All. To borrow a beloved line from a famous song, the intent is to Control "from the mountains to the prairies, to the oceans white with foam" -- and the intent is to control all people that live or visit or work in those places, too. If people can be tricked into thinking that on one magic day in October 1492, the entire North American continent -- but especially the U.S. -- became "threatened" by the first footfall of a European boot, than the control-it-all mantra will be "in like Flint." NOT. Only in your wildest dreams will this happen, no matter how emboldened you may be by past successes at trickery. Wrongly attributed to P.T. Barnum, all the people may be fooled some of the time, and some of the people may be fooled all of the time, but ALL the people cannot be fooled ALL of the time. Use in this "document" and others of nebulous words and phrases like "could", "may", "might", "studies show", only underpins my firm conviction that this "document" is a treasonous and false bill of goods from beginning to end.

11 There is no basis in fact or in constitutional law for such a human-maligning, unconstitutional attempt to wrest private property rights, yea, freedom, from honest, hardworking American property owners.

20 The fact that this "document" bears strong resemblance to many others -- with only the geographic description and "endangered" species being different -- earmarks it as a "cookie cutter" extortion attempt, using language deception and illegal legislation, junk "science" and much more.

20 From the Department of Interior agencies (Bureau of Reclamation and U.S. Fish & Wildlife Service) in the Klamath Basin of Oregon and California, to the "Upper Mississippi and Great Lakes Joint Venture Plan", which encompasses all or part of nine states, to virtually every "piece of work" which trots out "laws" like the Endangered Species Act and uses them to flatten freedom like a steamroller is used to flatten pavement, these "documents" look like they were cut from the same pattern. The pattern is an incremental theft of the natural resources of those Americans that worked hard, saved and paid for their American Dream become Reality. Rather than boldly say that the intent is to erase from America her middle class and the private

property rights that have taken root, grown and flourished under the responsible stewardship that farmers, fisheries, miners, ranchers, and timber harvesters have invested -- this "template" that you summarily use to take by language deception our property rights and our freedom, couches communism and socialism in "environmental" and "conservation" language.

I am quite clear on the real meaning of words that most people have been taught to accept and trust -- "trust" is one of those words. "Land trusts", "conservation easements", "restrictive covenants", "purchase of development rights", and so on, ad nauseum, suffice only to raise a raft of Red Flags, with me and a growing number of others.

8 The use of such words as "protection", "management", etc., is transparent in intent. Honest taxpayers' dollars are being used to steal all that genuine American free enterprise and ingenuity have built over more than two hundred years. Every time the phrases about "European settlement" and "protection and restoration" are employed, I know full well the intent.

1  
2  
3 What right do the "lead agencies" have to foist this onto South Dakota landowners, ranchers, farmers, and homeowners? NONE.

As you are so often wont to do, I have **included by reference every word in the following list** of my previous Official Public Comments and other writings, knowing that they are pertinent and relevant to this current "document", and therefore are to be included in total.

20 **My Official Public Comments regarding the My Official Public Comments regarding the "South Dakota Prairie Dog Management Plan, Draft ... From and by Julie Kay Smithson (full contact information immediately ...**  
[www.propertyrightsresearch.org/2004/articles6/my\\_official\\_public\\_comments\\_rega.htm](http://www.propertyrightsresearch.org/2004/articles6/my_official_public_comments_rega.htm) - 43k - Cached - Similar pages

20 **My official public comments on HR 3283 My official public comments on HR 3283 / S1108, "The America the Beautiful Pass". May 3, 2004. By Julie Kay Smithson.**  
 London, Ohio. [propertyrights@earthlink.net](mailto:propertyrights@earthlink.net) ...  
[www.propertyrightsresearch.org/2004/articles5/my\\_official\\_public\\_comments\\_on\\_h.htm](http://www.propertyrightsresearch.org/2004/articles5/my_official_public_comments_on_h.htm) - 6k - Cached - Similar pages

20 **My Official Public Comments on the Proposed Grazing Rule AND the ... Miss Julie Kay Smithson. 213 Thorn Locust Lane. London, Ohio 43140.**  
[propertyrights@earthlink.net](mailto:propertyrights@earthlink.net). End of **my Official Public Comments** on the Proposed Grazing Rule ...  
[www.propertyrightsresearch.org/articles3/my\\_official\\_public\\_comments\\_on\\_t.htm](http://www.propertyrightsresearch.org/articles3/my_official_public_comments_on_t.htm) - 32k - Cached - Similar pages

20 **My official Public Comments on the Country My official Public Comments on the Country-Of-Origin Labeling (COOL) voluntary labeling provision ... Miss Julie Kay**

**Smithson** 213 Thorn Locust Lane London, OH 43140 ...  
[www.propertyrightsresearch.org/my\\_official\\_public\\_comments\\_on\\_t.htm](http://www.propertyrightsresearch.org/my_official_public_comments_on_t.htm) - 7k - Cached  
 - Similar pages

*20* Editorials ... etc. 02-13-03 By Julie Kay **Smithson**. **My official public comments** on Bull

Trout 'Critical Habitat' 02-13-03 By Julie Kay **Smithson**. To ...  
[www.propertyrightsresearch.org/editorials1.htm](http://www.propertyrightsresearch.org/editorials1.htm) - 25k - Cached - Similar pages

*20* **My Official Public Comments** on the SGGE **My Official Public Comments** on the SGGE (Southern Golden Gate Estates) "Restoration Project". July 13, 2004. To: ... and many others. From and by: Julie Kay **Smithson** ...

[www.propertyrightsresearch.org/2004/articles7/my\\_official\\_public\\_comments\\_on\\_t.htm](http://www.propertyrightsresearch.org/2004/articles7/my_official_public_comments_on_t.htm) - 84k - Cached - Similar pages

*20* **My Official Public Comments** on the ... **My Official Public Comments** on The Mark Twain National Forest proposal "to designate an area of ... Julie Kay **Smithson**. 213 Thorn Locust Lane. London, Ohio 43140. ...

[www.propertyrightsresearch.org/2004/articles7/my\\_official\\_public\\_comments\\_on\\_t1.htm](http://www.propertyrightsresearch.org/2004/articles7/my_official_public_comments_on_t1.htm) - 101k - Cached - Similar pages

*20* **My Official Public Comments** **My Official Public Comments**: Sulphur Creek Ranch Land Exchange, Purchase & Conservation Easement ... Julie Kay **Smithson**. 213 Thorn Locust Lane. London, OH 43140. ...

[www.propertyrightsresearch.org/2004/articles4/my\\_official\\_public\\_comments.htm](http://www.propertyrightsresearch.org/2004/articles4/my_official_public_comments.htm) - 9k - Cached - Similar pages

*20* **My official public comments** on the Biscuit Fire Recovery Plan ... **My official public comments** on the Biscuit Fire Recovery Plan Draft EIS. January 18, 2004. To: Mr. Scott Conroy. ... Julie Kay **Smithson**. 213 Thorn Locust Lane. ...

[www.propertyrightsresearch.org/2004/articles/my\\_official\\_public\\_comments\\_on\\_t.htm](http://www.propertyrightsresearch.org/2004/articles/my_official_public_comments_on_t.htm) - 74k - Cached - Similar pages

*20* Editorials ... **My official public comments** on HR 3283 / S1108 05-10-04 By Julie Kay **Smithson**. Subtle assassin: perfect description of fly ash 05-10-04 By Julie Kay **Smithson**. ... [www.propertyrightsresearch.org/2004/editorialscnts.htm](http://www.propertyrightsresearch.org/2004/editorialscnts.htm) - 19k - Cached - Similar pages

lis/St. Paul and in Marin County, California. Even the suggestion ... Kind of gives you pause, doesn't it? It SHOULD. It's the TRUTH. Julie Kay **Smithson**. 213 Thorn Locust Lane. London, Ohio 43140. propertyrights@earthlink.net. ...  
 20 www.propertyrightsresearch.org/2004/articles8/my\_official\_public\_comments\_on\_t.htm - 101k  
 - Cached - Similar pages

**My Official Public Comments My Official Public Comments:** New River Parkway FEIS 8-14-03 'document' Date: 9/8/03 4:04:09 PM Eastern Daylight Time. From: JSmit10695". ... Miss Julie Kay **Smithson**. ...  
 20 www.propertyrightsresearch.org/articles4/my\_official\_public\_comments.htm - 13k -  
Cached - Similar pages

FS plans wilderness land exchange

... **My Official Public Comments:** Sulphur Creek Ranch Land Exchange, Purchase & Conservation Easement. ... Julie Kay **Smithson**. 213 Thorn Locust Lane. London, OH 43140. ...

20 www.propertyrightsresearch.org/2004/articles4/fs\_plans\_wilderness\_land\_exchang.htm  
 - 17k - Cached - Similar pages

**My OFFICIAL PUBLIC COMMENTS** on DOI Strategic Plan for FY 2002

... **My OFFICIAL PUBLIC COMMENTS** on DOI Strategic Plan for FY 2002-2007. April 1, 2003. ... Julie Kay **Smithson** 213 Thorn Locust Lane London, OH 43140-8844 1-740-857-1239. ...

20 www.propertyrightsresearch.org/articles/my\_official\_public\_comments\_on\_d.htm - 4k -  
 Supplemental Result - Cached - Similar pages

RAAPFAAP

20 ... To: R2FWE\_AL@fws.gov. **My official public comments** regarding Mexican Spotted Owl Habitat -- aka RIN 1018-AT52. ... Julie Kay **Smithson**. 213 Thorn Locust Lane. ...  
 www.propertyrightsresearch.org/articles6/raapfaap.htm - 7k - Cached - Similar pages

20 August 16 ... that I am mailing to you today, to be included as part of **my Official Public Comments**. ... Miss Julie Kay **Smithson** 213 Thorn Locust Lane London, OH 43140-8844 1-740 ...

www.propertyrightsresearch.org/gaviota.htm - 14k - Cached - Similar pages

20 **My official public comments** on the Biscuit Fire Recovery Plan ... **My official public comments** on the Biscuit Fire Recovery Plan Draft EIS. January 18, 2004. To: Mr. Scott Conroy. ... Julie Kay **Smithson**. 213 Thorn Locust Lane. ...

propertyrightsresearch.org/2004/ articles/my\_official\_public\_comments\_on\_t.htm - 74k - Supplemental Result - Cached - Similar pages

20

Editorials ... My official public comments on the Biscuit Fire Recovery Plan Draft EIS 01-22-04 By Julie Kay **Smithson**. Bison: A Question 01-07-04 By Julie Kay **Smithson**.

...  
propertyrightsresearch.org/2004/editorialscnts.htm - 7k - Supplemental Result - Cached - Similar pages

The ESA and its REAL Victims

20

[http://www.propertyrightsresearch.org/2004/articles8/esa\\_and\\_its\\_real\\_victims.htm](http://www.propertyrightsresearch.org/2004/articles8/esa_and_its_real_victims.htm)

I also hereby direct you to mail a copy of my Official Public Comment to every person and organization on your "scoping list", since you work with an endless amount of taxpayer dollars. For once, use these ill-gotten gains to share some knowledge and truth with this list that is predictable in its length and content.

20  
16

SCOPING LIST

Honorable Tom Daschle  
United States Senate  
816 6th Street  
P.O. Box 8168  
Rapid City, SD 57709

The Honorable Stephanie Herseth  
United States House of Representatives  
2525 W. Main, Suite 210  
Rapid City, SD 57702

Honorable Tim Johnson  
United States Senate  
P.O. Box 1098  
Rapid City, SD 57709

Honorable Michael Rounds  
South Dakota Governor  
500 East Capitol Avenue  
Pierre, SD 57501

Mr. Steve Brimm  
US Fish & Wildlife Service  
D.C. Booth Historical National Fish Hatchery  
423 Hatchery Circle

( Draft  
Appendix 4 )  
... .

Custer County Courthouse  
Mt. Rushmore Road  
Custer, SD 57730

Fall River County Commissioners  
Chairman  
Fall River County Courthouse  
North River Road  
Hot Springs, SD 57747

Shannon County Commissioners  
Chairman  
Fall River County Courthouse  
North River Road  
Hot Springs, SD 57747

Pennington County Commissioners  
Chairman, East Pennington County  
Pennington County Courthouse  
315 St. Joseph Street  
Rapid City, SD 57702

Haakon County Commissioners  
Chairman  
Haakon County Courthouse  
140 S. Howard  
Phillip, SD 57567

Stanley County Commissioners  
Chairman  
Stanley County Courthouse  
P.O. Box 595  
Fort Pierre, SD 57532-0595

Ziebach County Commissioners  
Chairman  
Ziebach County Courthouse  
P.O. Box 68  
Dupree, SD 57623-0068

21 That's it for this round -- er -- Official Public Comment from me.

This researched information provided by Julie Kay Smithson, [propertyrights@earthlink.net](mailto:propertyrights@earthlink.net) .

**Deisch, Shelly**

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**From:** Carl Stonecipher [stepnfire1@earthlink.net]  
**Sent:** Wednesday, December 01, 2004 3:48 PM  
**To:** Shelly Deisch  
**Subject:** Homestake-Whitewood Ceek Settlement

7a  
2c  
We favor option number 6 of the document. We also disagree with the concession made by the Governor and the Secretary of the GFP concerning public comments on private landowners granting easements to the GFP for public walk-in access to their land. This is a private matter between landowner and GFP and his neighbors have no right to enter in to this matter.

21  
Carl Stonecipher  
President of Greater Dacotah Chapter of SCI



# Haakon County Conservation District

409 N. Wray Ave  
P O Box 130  
Philip, SD 57567

(605)859-2186 #3  
(605)859-2495 Fax  
haakon@sdconservation.org

October 28, 2004

SD Game, Fish, and Parks  
Shelly Deisch  
3305 West South Street  
Rapid City, SD 57702

The Haakon County Conservation District Board of Supervisors would like to comment on the Draft Conceptual Restoration Plan for Whitewood Creek and the Belle Fourche and Cheyenne River Watersheds of South Dakota. Haakon County CD Board members were not able to attend the meeting in Spearfish, however, we have read the proposed alternatives and have comments and questions relative to those alternatives.

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7 { The Board feels that the local conservation districts should be involved with future discussions concerning the Proposed Restoration plan. We suggest a more central meeting location so all Districts can more easily attend.

{ We feel that information should be provided to the public, especially local conservation districts and landowners in the affected areas. Additional meetings could be held to educate the public, since the plan mentions keeping restored land in public ownership.

5  
3  
7 { The proposed alternatives should be more specific on the land area to be treated/acquired. For example, with the Cheyenne River be involved from Wasta to the confluence with the Missouri? If yes, what will be the level of involvement to those areas that are furthest away from the area of impact?

21 Thank you for the opportunity to give comments regarding the Plan.

Sincerely,

Boyd Waara, Supervisor  
Haakon County Conservation District



16389

Tveidt, Connie (GOV)

From: Zabel, Tanna  
Sent: Thursday, September 30, 2004 8:24 AM  
To: Tveidt, Connie (GOV)  
Subject: FW: Clean Up of Spearfish Canyon  
Importance: High

-----Original Message-----

From: Muri Miller [mailto:memilleratty@iw.net]  
Sent: Wednesday, September 29, 2004 7:36 PM  
To: Tanna.Zabel@state.sd.us  
Cc: jdavidson@usd.edu  
Subject: Clean Up of Spearfish Canyon

Dear Tanna & Governor Rounds

Congratulations on the money that the State of South Dakota and the U.S. Department of Interior received as compensation for hazardous substance releases from the Homestake mining operation in the Black Hills. It is exciting that these funds may lead to public ownership of some of the most scenic land in Spearfish Canyon. In order to deal with the remediation issues that will come with ownership of this property, please review the attached information and suggestions contained herein.

The attached documentation discusses the benefits of the use of genetically engineered Cottonwood trees to mitigate soil and water pollution specifically caused by metals. Use of cottonwood trees, which I believe are native to the area, may be able to remediate some of the Homestake pollution in Spearfish Canyon while offering a research (grant) opportunity for one or more of the South Dakota Universities to be carried out in conjunction with the University of Georgia. Please also consider the benefits of involving Professor John Davidson Esq.'s environmental law program at the University of South Dakota School of Law to provide externship opportunities for the legal issues in conjunction with the project.

Professor John H. Davidson may be reached at 605-677-6341 Office 605-677-5361 or [jdavidson@usd.edu](mailto:jdavidson@usd.edu)

Thank you.  
Muri E. Miller, Esq.

909 Broadway, suite 10  
Yankton, SD 57078



cc: Roxy  
Office of the Governor

TO: Den  
FROM: ct  
DATE: 9/30/04  
PLEASE:

- Draft Governor's Reply/Return File
- Handle/Report Back
- For Your Information

(RETURN THIS SLIP WITH FILE)

9/30/2004

## UGA Researchers Use Transgenic Trees To Help Clean Up Toxic Waste Site

Can genetically engineered cottonwood trees clean up a site contaminated with toxic mercury? A team of researchers from the University of Georgia - in the first such field test ever done with trees - is about to find out. The results could make clearer the future of phytoremediation - a technique of using trees, grasses and other plants to remove hazardous materials from the soil. UGA scientists and city officials in Danbury, Conn., planted on July 16 some 60 cottonwoods with a special gene at the site of a 19th-century hat factory in that northeastern city.

"We hope to see a significant difference in the levels of mercury in the soil within 18 months, perhaps as much as a twofold reduction," said Richard Meagher, professor of genetics at UGA.

The field test is a collaboration between UGA, Western Connecticut State University, Applied PhytoGenetics, Inc., of Athens and the City of Danbury.

While the technology now being used in Danbury does not apply to all sites, mercury pollution is a pervasive problem in Georgia as it is elsewhere. The site of a former chemical factory near Brunswick, for example, is polluted with mercury and other toxic chemicals. Mercury contamination has been reported around the sites of former gold mines in north Georgia, and advisories have been issued during the past decade for mercury-contaminated fish in more than 80 streams, lakes and creeks in the state.

Meagher's team did the first-ever field trial of a genetically engineered plant to sequester mercury when it grew transgenic tobacco in a New Jersey field trial in 2001, but this is the first such trial using trees, whose larger root systems and year-round life cycle makes them better candidates for long-term cleaning of polluted soil.

Phytoremediation is a relatively new field and one gaining international interest. A team of photographers working for National Geographic, for instance, recently spent considerable time with Meagher capturing on film his work as part of a four-part documentary that will be aired some time next winter.

Meagher has for more than a decade been a pioneer in phytoremediation, and he was the first to demonstrate that a gene called *merA* can be inserted into plants and used to detoxify mercury in the environment. While no plant can break mercury down, since it is an element, less toxic forms can be created, and that has been the goal of Meagher's lab - to find ways to let plants or trees grow on polluted sites, draw such heavy metals as mercury into the plants themselves and then either transpire the much less toxic forms of the metal into the air where they are quickly diffused or trap the metal aboveground for later harvest.

The project with Danbury came about because Danbury's environmental coordinator, Jack Kozuchowski, had in 1977 published an early study that showed how native plants could transfer mercury from contaminated soils into the atmosphere. Kozuchowski, aware of Meagher's work, convinced officials in Danbury that the so-called Barnum Court site in that town would be a perfect site for a field trial of the genetically engineered trees that Meagher and his collaborator Scott Merkle developed.

The city was awarded a grant of some \$55,162 from the Environmental Protection Agency to explore use of the technology, and the trial was set up - though most costs for the work are being born by those involved in it.

"It is our hope that the research will lead to a cleansing of the Barnum Court property so the city can transfer the property for development," said Mark Boughton, mayor of Danbury.

Meagher's mercury phytoremediation technology is exclusively licensed to Applied PhytoGenetics, or APGEN as it is called, and that Athens company has been instrumental in helping set up the field trial. (Meagher is a consultant to and cofounder of APGEN.)

Postdoctoral associate Andrew Heaton of Meagher's lab and one other of Meagher's students traveled to Danbury in July to supervise planting the genetically engineered trees on the site in enclosed plastic containers buried on the site.

Because the mercury on the site ranges, depending on location, from five to more than 300 parts per million, trials were set up to measure the effects of the cottonwood trees on progressively more polluted samples of soil. Forty-five plots, most planted with four trees each, are located on the site, which is in a mixed-use urban area and whose total area is less than an acre. (Some 15 plots have four *merA* trees, 15 are nonengineered or "wild-type" trees and 15 received no trees at all, so there are 120 trees in the field test.)

The form of mercury at the Danbury site is ionic mercury, a species that can be sequestered and transformed into less toxic metallic mercury in the transgenic trees and then transpired into the atmosphere. (Several forms of mercury were used in hat-making in the 19th century, but their toxic effects often sickened workers and led to the phrase "mad hatter," which described the process of neurological degeneration that came from working with the metal. In this part of New England, the symptoms of mercury poisoning were called the "Danbury shakes.")

Meagher's lab actually has two genes that can effect phytoremediation, merA and merB, but since the merA is active on ionic mercury, the cottonwoods trees chosen for the Danbury trial express the merA gene.

"This is a field test, not a cleanup," said Meagher. "And we will be measuring mercury in both the soil and the trees to see just how much success we have in reducing the mercury levels in the soil. We are very optimistic that this technology will work."

While the trees at the site will have to be watered, the costs of that pale in comparison to traditional clean-up methods - digging up the polluted soil and hauling it off for storage at another site, possibly greater than \$1 million.

A team of researchers from Western Connecticut State University will be studying the role of soil microorganisms in the potential clean-up of mercury on the site. According to the City of Danbury, the field test will run through the 2004 growing season, and if results are positive, genetically engineered cottonwood trees will be used to clean the whole site.