

## **SPEARFISH CANYON - HMC HYDRO #2 LAND ACQUISITION**

**A PROJECT PROPOSAL TO RESTORE, REPLACE, AND ACQUIRE  
THE EQUIVALENT OF TRUST RESOURCES AND LOST SERVICES**



**November 2014**

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### **A PROJECT PROPOSAL TO RESTORE, REPLACE, AND ACQUIRE THE EQUIVALENT OF TRUST RESOURCES AND LOST SERVICES**

#### **Introduction**

This project proposal is made to request funding from the Homestake Mining Company Natural Resource Restoration Fund for acquiring certain lands in Spearfish Canyon through the *Final Restoration and Compensation Plan for Whitewood Creek and the Belle Fourche and Cheyenne River Watersheds, South Dakota, January, 2005*.

South Dakota's Black Hills and Spearfish Canyon are well known for their mining history. Spearfish Canyon, located in the northwest corner of Lawrence County in the Northern Black Hills, is threaded by a nationally recognized Scenic Byway linking Spearfish Creek, Bridal Veil Falls, Roughlock Falls, Little Spearfish Creek, and Spearfish Falls. These unique aquatic formations are further highlighted by diverse and undeveloped vegetative communities, including aspen, birch, pine, and spruce forests.

Spearfish Canyon is arguably one of the State's most highly valued natural areas. This project proposes to acquire for natural resource conservation and for public use and enjoyment, a 32.251 acre tract from Homestake Mining Company, thereby perpetually preserving a still unprotected stretch of Spearfish Canyon.

Spearfish Canyon has survived over 100 years of settlement, resource extraction, and private development. Homestake Mining Company has arguably had a significant impact within the Canyon, including various economic and real estate impacts, as well as impacts to water use and diversion. Despite these impacts, as Homestake Mining Company continues ceasing gold production in the Black Hills, they also wish to keep the canyon lands in public ownership and have offered the South Dakota Game, Fish and Parks the opportunity to purchase these lands. This is particularly important as residential and commercial growth and development continue to impact fish and wildlife habitats and other natural resources on remaining privately owned open space in the Black Hills.

We request the Whitewood Creek Restoration Team consider this project proposal for funding from the Homestake Mining Company Natural Resource Restoration Fund for acquiring 32.251 acres of land in Spearfish Canyon through the *Final Restoration and Compensation Plan for Whitewood Creek and the Belle Fourche and Cheyenne River Watersheds, South Dakota, January, 2005*.

## **Project Title**

Spearfish Canyon HMC Hydro #2 Land Acquisition

## **Location**

The proposed 32.251 acre acquisition site is located in Spearfish Canyon, Lawrence County, South Dakota. (See attached maps and photos). The legal description is: HMC Lot 2A of Spearfish Placer, M.S. 439, located in the NE¼ of Section 17, Township 5 North, Range 2 East of the BHM, Lawrence County, SD.

## **Organization Making the Proposal**

The South Dakota Game, Fish and Parks – Wildlife Division is submitting this proposal.

Title to the property would be in the name:

State of South Dakota (for the use and benefit of the Department of Game, Fish and Parks), 523 E. Capitol Ave., Pierre, SD 57501

Primary contact for this project proposal is:

Paul Coughlin  
Wildlife Program Administrator  
South Dakota Game, Fish and Parks  
523 E. Capitol Ave.  
Pierre, SD 57501

## **Qualifications**

South Dakota Game, Fish and Parks has extensive experience in land acquisition, mitigation, management, leasing, easements, and real estate transactions. The Department owns over 389,000 acres of land, managed primarily by two Divisions.

The Division of Parks and Recreation manages over 108,000 acres in 12 state parks, 41 recreation areas, 70 lakeside use areas and 6 nature areas. In the Black Hills, the Division of Parks and Recreation also manages 109 miles of George S. Mickelson Trails and 350 miles of snowmobile trails.

The Wildlife Division currently owns and manages approximately 281,000 acres for wildlife habitat, game production, and public hunting and fishing access.

## **Project Summary**

- Known trust resources present on the 32.251 acre HMC Hydro #2 property include but are not limited to:
  - Public Recreation - Hunting and fishing access, wildlife watching and photography, hiking

- Water Resources – Spearfish Canyon is designated Special, Exceptional, Critical, and Unique by the SD Board of Minerals and Environment; Spearfish Creek has a designated beneficial use as a cold water permanent fishery (SD Administrative Rule); and water right 43C-1 for in-stream flow belongs to South Dakota Game, Fish and Parks
- Flora and Fauna -
  - Birds and Mammals - American dipper, American marten, Northern flying squirrel, mule deer, white-tailed deer, elk, mountain lion, coyote, beaver, bobcat, and porcupine
  - Reptiles and Amphibians - leopard frog, red-bellied snake, turtles, snakes, salamanders, frogs, and toads
  - Fish - mountain sucker, longnose sucker, brook trout, brown trout, and rainbow trout (Spearfish Creek hosts one of only two natural reproducing population of rainbow trout in the Black Hills)
  - Plants- round leaf orchid, yellow lady slipper, 12 additional plants of concern (Ode and Marriott. 1990. Sensitive plant surveys in the northwestern Black Hills. GFP Report No. 90-3, SD Game, Fish and Parks), ponderosa pine, white spruce, numerous hardwood and deciduous trees and shrubs
  - Invertebrates - *Oreohelix strigosa* n. subsp., *Oreohelix strigosa cooperi* (snail), mayflies, stoneflies, and butterflies
- Geologic Formations - Madison, Minnelusa, Englewood, Whitewood, Winnipeg, Deadwood canyon walls, rims, ledges, limestone sinkholes and caves fossils
- Project Management Goals and Objectives:
  - GOAL 1: Restore, replace, and enhance lost trust resources and services by acquiring scenic and unique canyon habitats, associated riparian area, canyon drainages with hardwood communities, canyon walls, escarpments, and pine covered uplands.
  - GOAL 2: Compensate the public for lost and injured trust resources and services by keeping lands for public ownership and management.
    - *Objective 1*: Acquire 32.251 acres, including 0.5 miles of perennial cold water stream, to replace lost and injured trust resources and services.
    - *Objective 2*: Secure and sustain in perpetuity public trust resources and services through acquisition of 32.251 acres of public land for the people of South Dakota and its visitors.
    - *Objective 3*: Ensure a high likelihood of success to compensate the public for lost and injured trust resources and services through public ownership and management of 32.251 acres by an experienced and professional natural resource agency - South Dakota Game, Fish and Parks.
- Restoration Option -The restoration action of choice is acquisition of land in fee title by South Dakota Game, Fish and Parks. This action meets the Plan's Preferred Alternative 6. Public acquisition in fee title and permanent public land ownership will

ensure the public is made whole through the goals and objectives stated above. South Dakota Game, Fish and Parks – Wildlife Division will oversee operations and management of the acquired land.

### **Implementation Schedule**

This acquisition project was initiated in early 2014, and is on schedule to be completed by December 31, 2014. A purchase agreement has been signed between buyer and seller, and all necessary legal and real estate closure procedures are currently being completed.

### **Estimated Project Cost**

The total cost for the 32.251 acre Spearfish Canyon HMC Hydro #2 land acquisition project is \$420,000.00. Total funds requested from the Homestake Mining Company Natural Resource Restoration Fund (HMC-NRRF) are 25% of the purchase price, or \$105,000.00. The remaining 75% are from a Wildlife and Sport Fish Restoration (WSFR) grant through South Dakota Game Fish and Parks. Other real estate and closing costs will be paid by either the seller or buyer using non-project funds.

HMC Natural Resource Restoration Fund	\$ 105,000.00
Wildlife and Sport Fish Restoration Grant	<u>\$ 315,000.00</u>
Total project acquisition cost	\$ 420,000.00

Once in State ownership, annual operation and maintenance activities will be conducted by the Wildlife Division of South Dakota Game, Fish and Parks, with all associated costs funded through an existing WSFR land management grant. No additional HMC-NRRF resources will be required for annual operation and maintenance activities.

Annual operation and maintenance activities include habitat and public use improvements, such as signage, boundary fences, and public use area maintenance, as well as routine law enforcement at these parcels as part of the Wildlife Division's normal operations. Free public use and access will be allowed, no revenue will be generated from use of the property. The property will be regularly monitored to protect against and prevent natural and human-caused impacts to sensitive areas and riparian habitats.

### **Existing Project Area Land Management Activities**

The existing property owner is Homestake Mining Company. The 32.251 acre tract is located 6 miles south of Spearfish in Lawrence County, South Dakota and is bisected by the Spearfish Canyon Highway (US Hwy 14A).

The property is mostly forested, and is surrounded by Black Hills National Forest property and high canyon walls. Spearfish Creek extends through the length of the property – approximately 0.5 miles. The property consists mostly of dense, small-diameter ponderosa, which may require non-commercial thinning, and typical native

hardwood and shrub species along Spearfish Creek. Some storm damaged or possible disease trees (some dead and dying) also exist.

The Hydro #2 plant, constructed in 1917, is located on the property but is no longer in operation. Additionally, a small cold storage building is present on the site. Both structures were previously used by Homestake Mining Company, but have been abandoned for several years. No mining activities have been conducted on the property. In August 2014, a Phase 1 Environmental Site Assessment was conducted on the property. The assessment revealed no evidence of recognized environmental conditions in connection with the site. There are no known noxious weed infestations, public use, erosion, dumping, or physical hazard problems associated with the property.

An in-holding consisting of a single private residences is located on the northeast part of the property, as well as adjoining residences off the northeast corner of the property. Known encumbrances on the property include an access easement to the adjoining residences, and typical utility easements. A commitment of title insurance has been ordered and will be reviewed by the South Dakota Game, Fish and Parks attorney to ensure a clear and marketable title.

### **Project Ranking Criteria**

The proposed project meets the rankings criteria as laid out in the Final Restoration and Compensation Plan for Whitewood Creek and the Belle Fourche and Cheyenne River Watersheds, South Dakota (Plan), as follows:

#### **Section 8.1 - Restore, Replace, or Enhance Trust Resources**

- Evaluation Level: Medium – The proposed project meets the Plan's first goal to restore injured and/or lost trust resources and services resulting from release of hazardous substances in the Whitewood Creek, Belle Fourche, and Cheyenne River drainages by acquiring 32.251 unique acres within Spearfish Canyon. The proposed project will restore trust resources and services similar to those injured or lost.
- Numerical weight: 3

#### **Section 8.2 - Compensate the Public**

- Evaluation Level: High - This project meets the Plan's second goal to compensate the public for injured and/or lost trust resources and services, by securing public access, use, and resource protection for the benefit of future generations of South Dakota citizens and its visitors. Public access, use, and resource protection are ensured in perpetuity. The South Dakota Game, Fish and Parks recognizes and will treasure the intrinsic values of this land and will manage the public resources accordingly. Fees will never be charged to use or enjoy this land.
- Numerical weight: 5

#### **Section 8.3 - Natural Resource Recovery**

- Evaluation Level: High - This project meets the Plan's first objective to recover targeted habitats and ensure properly functioning conditions for the benefit of trust

resources and lost services by enhancing and protecting a substantial native riparian area, stream course, and adjacent upland habitats that support a wide array of trust resources and services.

- Numerical weight: 4

#### Section 8.4 - Sustainable Benefits

- Evaluation Level: High - The proposed project meets the Plan's second objective by providing maximum benefits for restored, replaced, or enhanced trust resources and services, in perpetuity. Long-term sustainable benefits are guaranteed in perpetuity through fee title acquisition, with conservation benefits and trust resources regulated depending upon resource management needs. Further, monitoring to ensure public and trust resource benefits are sustained will be accomplished through South Dakota game, Fish and Parks annual management plans and normal course of business.
- Numerical weight: 5

#### Section 8.5 - Likelihood of Success

- Evaluation Level: High – The proposed project meets the Plan's third objective of achieving a high degree of success with technical feasibility and degree of restoration effort needed. This project requires no manipulation or rehabilitation to achieve success. The Wildlife Division has highly skilled and knowledgeable management personnel in place to manage existing trust resources and complete public use improvements.
- Numerical weight: 5

#### Section 8.6 – Cost/Benefit

- Evaluation Level: High – Relative to the one-time cost of acquisition, and minimal future costs of management, the proposed project will achieve a high degree of cost effective return to trust resources and services through perpetual protection and free public use.
- Numerical weight: 5

#### Section 8.7- Location of Project

- Evaluation Level: High - The proposed project is located within the Restoration Site, with nearly identical trust resources to those lost. Further, the adjacent Black Hills national Forest lands are managed in a manner compatible with the plan, both now and into the foreseeable future.
- Numerical weight: 5

#### Section 8.8 - Cooperative Efforts

##### Part A - Cooperator's Contributions

- Evaluation Level: High – Seventy-five percent of the project acquisition costs are being provided by South Dakota Game, Fish and Parks through a separate WSFR grant. Although South Dakota Game, Fish and Parks is one of the State's trustees named in the plan, its contribution far exceeds the amount of requested HMC-NRRF funds.



- Numerical weight: 5

#### Part B - Cooperator's In-Kind Contributions

- Evaluation Level: High - South Dakota Game, Fish and Parks' in-kind contribution to the proposed project includes real estate and legal functions associated with the acquisition, as well as future maintenance, operation, and management of habitat and public use facilities.
- Numerical weight: 4

#### Section 8.9 - Maintenance

- Evaluation level: High – On-going operation and maintenance responsibilities for the proposed project land will be minimal, and be conducted by the Wildlife Division of South Dakota Game, Fish and Parks, with all associated costs funded through an existing WSFR land management grant.
- Numerical weight: 5

#### Section 8.10 - Size

- Evaluation Level: High – While the proposed project land at 32.251 acres may not seem like a large amount of land, it includes 0.5 miles of permanent cold-water stream, in addition to adjoining a large contiguous block of Black Hills National Forest land that already provides high quality functioning trust resources and services.
- Numerical weight: 4

#### Section 8.11 - Project Hazards

##### Part A: Physical hazards

- Evaluation Level: High – While land management activities carry some degree of risk, operations, maintenance, and public use activities on the proposed project land will be protective so as to cause no further damage or injury to trust resources and services. Some physical hazards may also exist near the site due to the building sites, adjacent highway, and overhead utility lines. Further, there will be no risks to flora, fauna, water resources, soils, sediments, or air.
- Numerical weight: 4

##### Part B: Hazardous substance releases.

- Evaluation Level: High – The proposed project will not cause injury to trust resources due to hazardous substances because such substances are not known to exist on the property or on surrounding public lands. In August 2014, a Phase 1 Environmental Site Assessment was conducted on the property. The assessment revealed no evidence of recognized environmental conditions in connection with the site.
- Numerical weight: 5

#### Section 8.12 - Protect Public Health, Safety, and the Environment

- Evaluation Level: High - Any hazards that may exist near the building sites, highway, or utility lines are minimal and will be address through South Dakota Game, Fish and Parks assessments and work plans. The proposed project however does not create



a public health threat or create adverse impacts on human health, safety, and the environment.

- Numerical weight: 4

#### Section 8.13 - Consistency with Existing Laws, Policies, and Regulations

- Evaluation Level: High – The proposed project complies with applicable Federal, State, and Tribal Laws, policies, and regulations (Appendix 3 of the Plan).
- Numerical weight: 5

#### Section 8.14 - No Duplicate or Replacement Funding

- The proposed project complies with the criteria that projects will not be funded through the Homestake Mining Company Natural Resource Restoration Fund that are already funded, can be accomplished by other means, or should be funded by more appropriate sources.

#### Section 8.15 - Notice to County for Land Acquisition

- Evaluation Level: Medium – Because the proposed project involves land acquisition, the South Dakota Game, Fish and Parks is in the process of contacting the Lawrence County Commission and the Lawrence County Conservation District.
- Numerical weight: 3

### **Historic and Cultural Resources**

There are no known or suspected historical or archeological sites on the property.

### **Threats**

The 32.251 acre Homestake Mining Company parcel proposed for acquisition is privately owned, but being offered exclusively for sale to South Dakota Game, Fish and Parks. This is important as residential and commercial growth and development continue to impact fish and wildlife habitats and other natural resources on remaining privately owned open space in the Black Hills of South Dakota, particularly around and within Spearfish Canyon. This very real threat is rapidly changing the integrity within Spearfish Canyon, as with development come the associated human impacts and issues of habitat fragmentation, invasive species, unrestricted and uncontrolled vehicle use, littering, and septic and water system issues, giving rise to more demands for county and State services.

### **Application Deadline**

This project proposal is within the Plan's timeframe.

### **Notice to County for Land Acquisition**

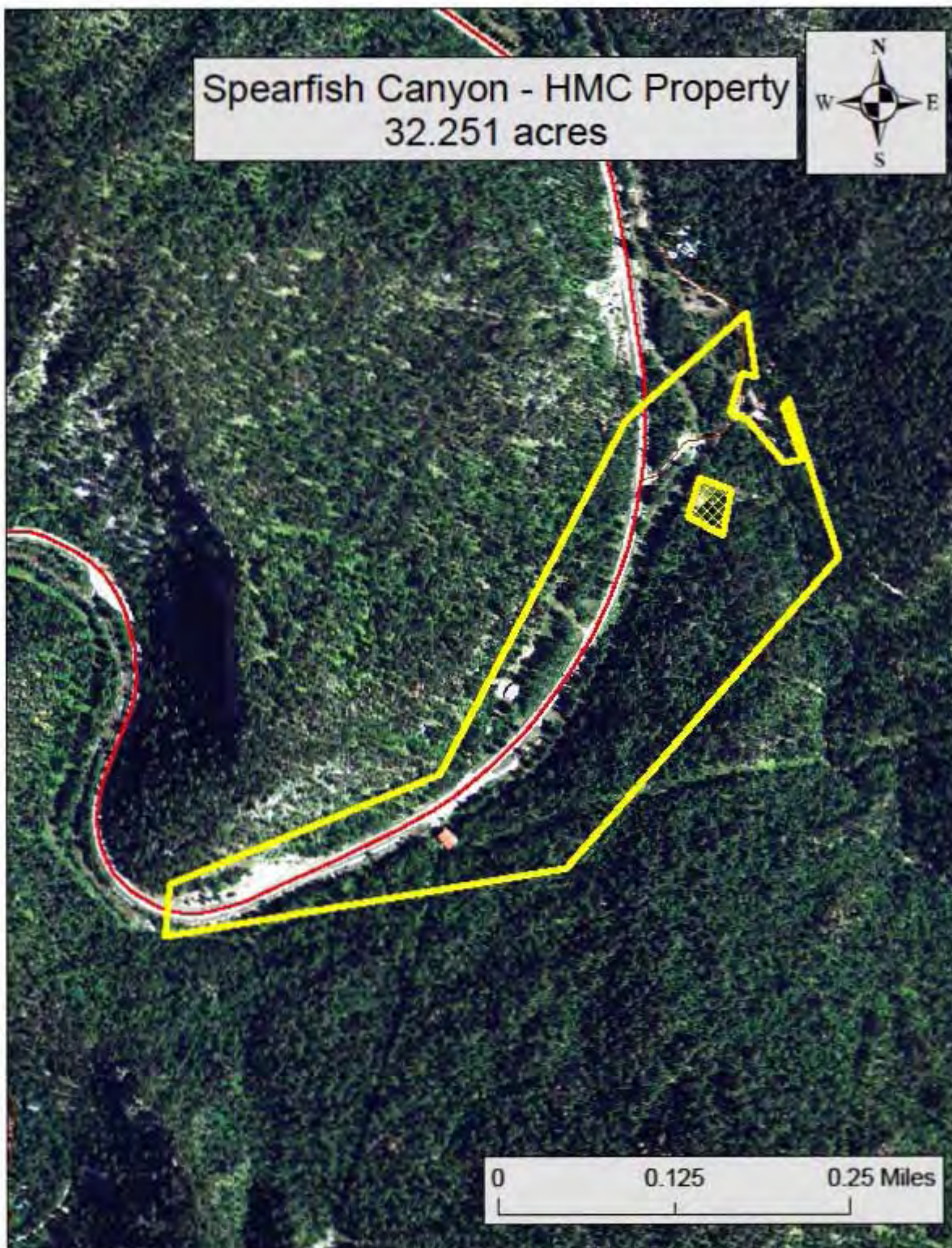
South Dakota Game, Fish and Parks is in the process of contacting the Lawrence County Commission and the Lawrence County Conservation District as per the Plan's requirement.

Spearfish Canyon - HMC Hydro #2 land acquisition proposal - location maps





Spearfish Canyon - HMC Property  
32.251 acres





Spearfish Canyon - HMC Property  
32.251 acres

