

United States Department of Agriculture
Forest Service



Jenny Gulch Gold Exploration Drilling Project

Draft Decision Notice and Finding of No Significant Impact

Mystic Ranger District, Black Hills National Forest, Pennington County, South Dakota

July 2022



For More Information Contact:

Jim Gubbels
Black Hills National Forest, Mystic Ranger District
8221 Mount Rushmore Road
Rapid City, SD 57702
Phone: 605-343-1567
Fax: 605-343-7134

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Abbreviations

BHNF	Black Hills National Forest
CFR	Code of Federal Regulations
CEQ	Council on Environmental Quality
SD DANR	South Dakota Department of Agriculture and Natural Resources
DN	Decision Notice
EA	Environmental Assessment
EIS	Environmental Impact Statement
F3	F3 Gold, LLC
FONSI	Finding of No Significant Impact
MA	Management Area
MIS	Management Indicator Species
NEPA	National Environmental Policy Act
NFSR	National Forest System Road
PO	Plan of Operations
USFS	United States Forest Service
WIZ	water influence zone

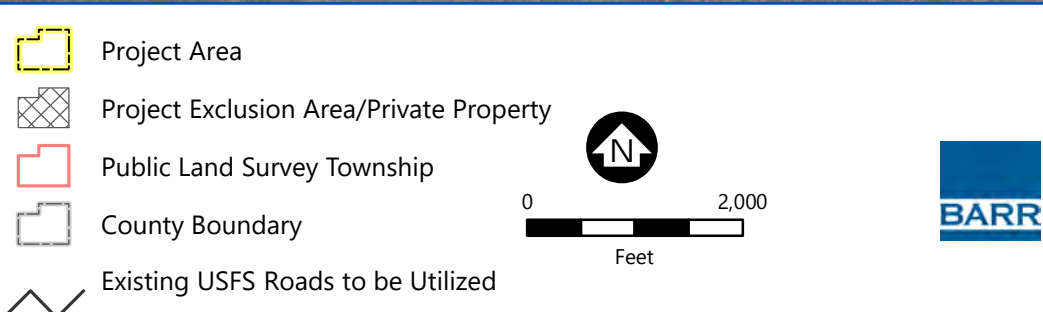
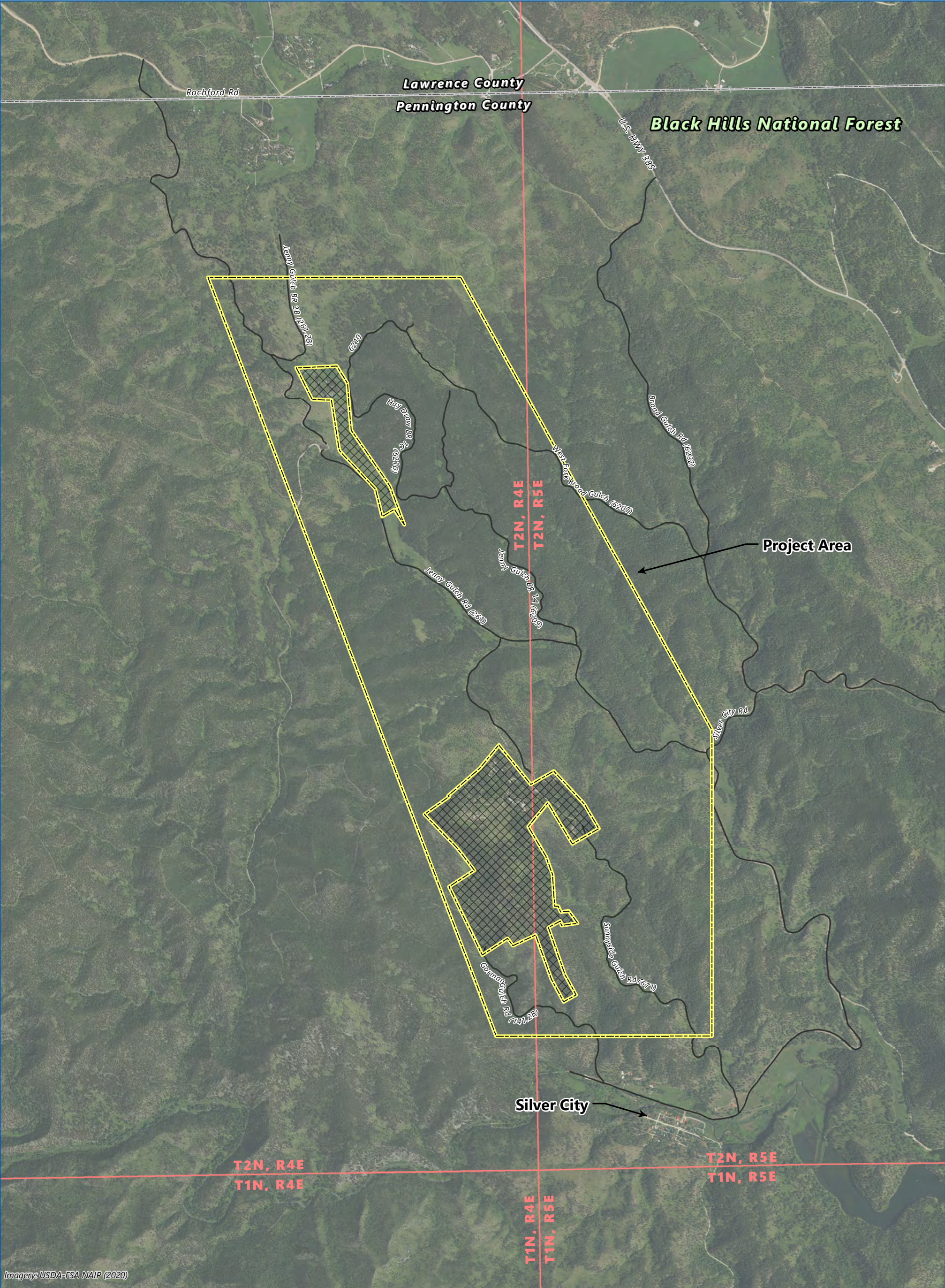
1 Introduction

This document contains a Decision Notice (DN) and Finding of No Significant Impact (FONSI) for the Jenny Gulch Gold Exploration Drilling project (Project) proposed by F3 Gold, LLC (F3). The DN documents my decision and provides my explanation of the management and environmental reasons I used to make my decision in selecting an alternative to implement. The FONSI presents the reasons why I find this action will not have a significant impact on the human environment and therefore why an Environmental Impact Statement (EIS) will not be prepared. The completed Jenny Gulch Gold Exploration Drilling Project Environmental Assessment (EA) is incorporated by reference.

The United States Forest Service (USFS) Black Hills National Forest (BHNF), Mystic Ranger District received a Plan of Operations (PO) from F3 on December 10, 2018, proposing to explore for gold, which falls under the locatable mineral regulations at 36 Code of Federal Regulations (CFR) 228 Subpart A (F3 Gold LLC. 2018. U.S. Forest Service Plan of Operations for F3 SC2019 Exploration Project). The Project site is located north of Silver City, Pennington County, South Dakota in Sections 19, 30, 31, T2N R5E and Sections 13, 14, 24, 25, T2N R4E (Figure 1-1).

This Project includes diamond core drilling sites, access road maintenance (as needed), drill pad clearing (as needed), and reclamation activities. Two staging areas would be used to store equipment and tools. Main access from the north would be from National Forest System Road (NFSR) 261 (Jenny Gulch Road) via county Highway 237 (Rochford Road). The primary access from the south would be from NFSR 671 (Sunnyside Gulch Road) or NFSR 261 (Jenny Gulch Road) via Silver City Road. In addition, temporary overland trails may be constructed for drill site access. No mining, milling, or processing is proposed as part of this Project. The Project would last approximately one year from initiation through drilling and reclamation. This proposal is guided by the 1997 BHNF Land and Resource Management Plan (Forest Plan) and evaluated in accordance with the National Environmental Policy Act (NEPA). F3's proposed action is represented as Alternative B in the EA.

In addition to the proposed action (Alternative B), the EA considered the no action alternative (Alternative A) and one additional action alternative (Alternative C) intended to minimize adverse environmental impacts on National Forest System lands in accordance with 36 CFR 228.1, Alternative C was developed to address the key issues identified during scoping: botanical resources/reclamation, cultural/heritage resources, public health and safety, water quality/water supply, and recreation effects. Table 2-1 provides a comparative summary of the alternatives.



PROJECT LOCATION
Jenny Gulch Gold
Exploration Drilling Project
Final EA
Pennington County, SD

FIGURE 1-1

1.1 Purpose and Need

The Forest Service's purpose is to decide whether to approve F3's proposed PO and, if approved, what requirements are appropriate to minimize impacts on surface resources in accordance with 36 CFR 228, subpart A. After evaluating the proposed PO, the Forest Service determined that approving the proposed mining plan of operations would be a major Federal action subject to the National Environmental Policy Act as defined in 40 CFR 1508.1. Accordingly, the Forest Service prepared an EA.

The need for the Forest Service's action is to comply with regulations governing the use of surface resources for operations authorized by the United States mining laws on National Forest System lands under 36 CFR 228, subpart A. These regulations require that the Forest Service respond to parties who submit a proposed plan of operations for approval to conduct operations authorized by the United States mining laws on National Forest System lands for part or all of their planned actions including mining, mineral processing, and uses reasonably incident thereto. In accordance with 36 CFR 228.5, the submittal of F3's proposed PO requires the Forest Service to consider whether to approve the proposed mining plan of operations or to require changes or additions necessary for the plan to meet the purpose of the regulations for locatable mineral operations.

1.2 Agency and Public Engagement

Opportunities for agency and public engagement have been ongoing through Project development. These efforts are summarized below and are described in detail in Section 4 and Appendix G of the EA. Engagement efforts have included the following:

- Preparation of a *Public Involvement Plan* at the onset of the Project to identify and document collaborative efforts made to involve, interact with, and cooperate with interested stakeholders.
- *Project Scoping Letters* were distributed on January 6, 2020, to 308 stakeholders and adjacent landowners, thus initiating a 30-day public scoping period. A total of 339 scoping comment letters were received, one of which consisted of a form letter that was submitted by 196 people. Comments were reviewed and cataloged based on resource issues, and issues identified in the scoping comment letters were used to help inform development of the Project's EA. Responses to scoping comments are included in Appendix H of the EA.
- An *Interagency Scoping Meeting* was held on January 16, 2020, to review the Project, discuss data needs, and solicit agency input regarding potential issues and concerns.
- The USFS first solicited *Government to Government Consultation* interest in a mailing distributed to 16 Tribal entities on January 6, 2020. The Cheyenne River Sioux Tribe, Oglala Sioux Tribe, Standing Rock Sioux Tribe, and Yankton Sioux Tribe each responded with requests for consultation. The USFS responded in writing to determine consultation meeting dates on March 13, 2020. However, due to the Covid-19 pandemic and associated shutdowns, government to government consultation was not possible for most of 2020 and early 2021. The National Historic Preservation Act, Section 106 Cultural Resources Inventory was provided to Tribal Historic Preservation Officers as identified per 36 CFR 800.3, to provide comment on the Agency's (USFS) determination of the proposed undertaking's effect to cultural resources on July 2, 2021. Consultation efforts resumed in early 2022. Government to government consultation was held

with the Crow Creek Sioux Tribe on January 27, 2022, the Oglala Lakota Sioux Tribe on January 28, 2022, and with the Three Affiliated Tribes (MHA Nation) on February 22, 2022, and April 11, 2022. In addition, pre-consultation meetings occurred with the Yankton Sioux Tribe on February 2 and February 23, 2022.

- A *Public Information Meeting* was held on January 16, 2020, to provide information on the Project and as a means of allowing the public to bring forward questions or comments. The meeting was held as an open-house format for the majority of the meeting, with a short presentation toward the middle of the meeting. A total of 101 people attended the meeting. The USFS also discussed the Project with the City of Rapid City Public Works Department and Ellsworth Air Force Base on March 11, 2020, and with the National Forest Advisory Board on April 15, 2020.
- A legal notice was published on September 22, 2021, to formally initiate the 30-day *Draft EA Public Review and Comment Period*. All parties who submitted a scoping comment or requested to be added to the Project mailing list received a postcard or email notifying them of the availability of the Draft EA and opportunity to comment on it. Approximately 416 comment letters, including 6 form letters, were received; however, 20 of these comment letters were received after the 30-day comment period. All comments that were received were reviewed and cataloged based on resource issue and USFS provided responses to each comment. Responses to Draft EA comments are included in Appendix I of the EA.

2 Project Summary

An overview of the issues and alternatives is presented below to provide a better understanding in the context of the decision disclosed in this document. A more detailed description of the Project can be found in Chapters 1 and 2 of the EA.

2.1 Issues

Comments received during the public scoping process were used to help define the issues and evaluation criteria for analysis in the EA, develop alternatives and mitigation measures, and analyze effects. A total of 339 scoping responses were received via email, mailed letters, or personal delivery during the scoping process, including one form letter that was submitted by 196 people (see EA Appendix H). Through review and analysis of scoping comments and input, the following issues were evaluated in detail in Chapter 3 of the EA:

- Access and transportation
- Botanical resources
- Cultural resources (heritage resources)
- Fisheries and wildlife
- Geology, geohydrology, geochemistry, and soils
- Hydrology – water quality/water supply/aquatic resources
- Recreation and travel management
- Public health and safety

Table 3-1 of the EA provides a summary of the issues, associated issue statements, and evaluation criteria used for analysis in the EA.

2.2 Alternatives Considered

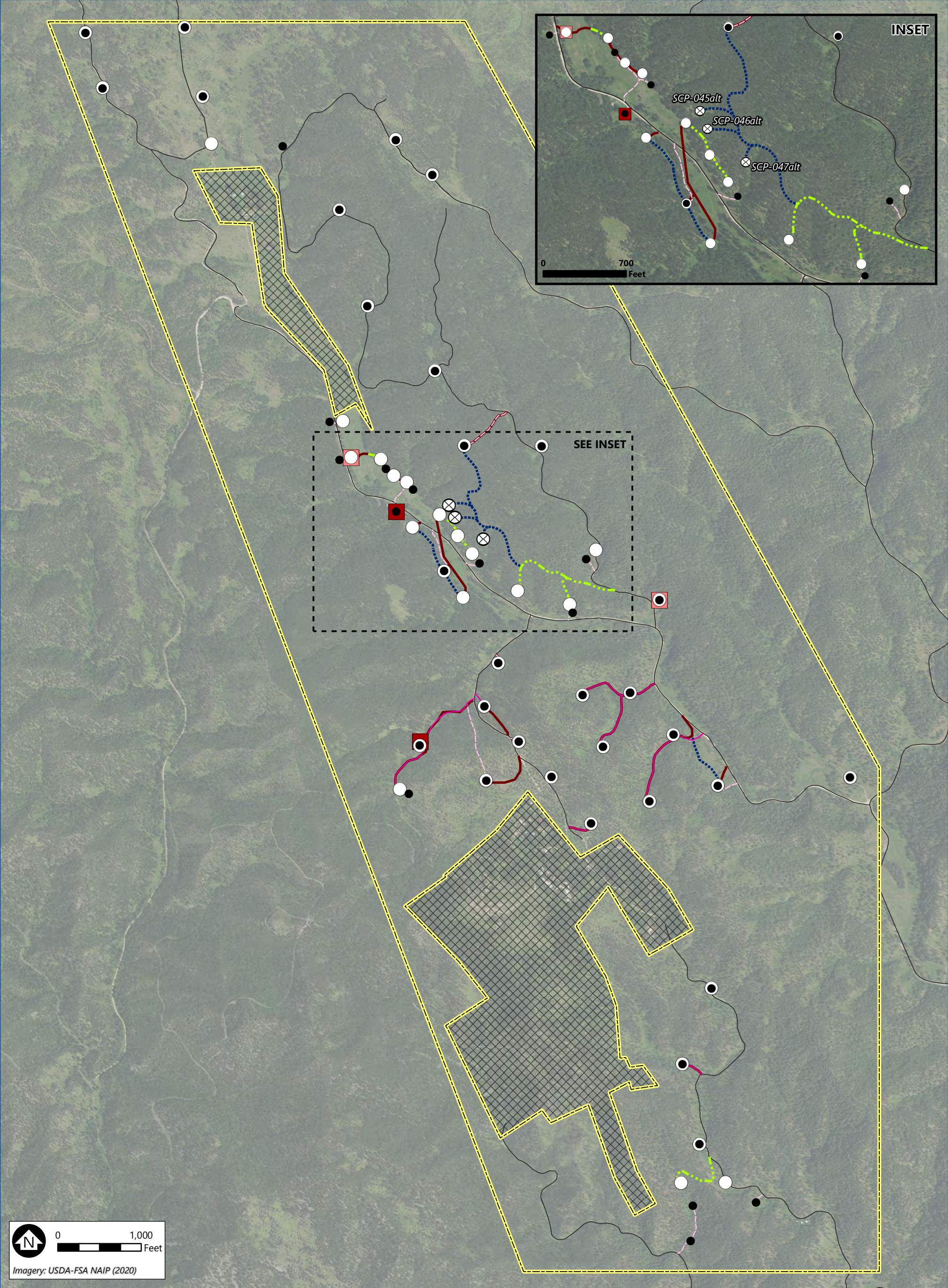
Three alternatives were considered in detail in the EA. These are briefly discussed below. A more detailed description of all alternatives can be found in Chapter 2 of the EA.

2.2.1 Alternative A (No Action)

The NEPA (40 CFR 1502.14) requires a study of the No Action Alternative to use as a basis for comparing the effects of the proposed action and other action alternatives. Under the No Action Alternative (Alternative A), the USFS would not approve F3's PO to conduct exploration drilling activities. There would be no change to the existing condition and therefore no environmental effects associated with Alternative A. However, Alternative A does not meet the Project's purpose and need to allow F3 to access and explore for minerals on lands open to the public domain in accordance with the General Mining Act of 1872.

2.2.2 Alternative B (Proposed Action)

Alternative B is the proposed action as described in the PO submitted by F3. Alternative B includes diamond core drilling at up to 42 drill sites, access road maintenance (as needed), drill pad clearing (as needed), and reclamation activities (Figure 2-1). Alternative B would require a project-specific amendment to the Forest Plan to allow three drill pads in MA 8.2 (see EA Figure 2-2). The Forest Plan states that no new mineral development (including exploratory drilling to inform future mineral development) is allowed and the majority of the MA around Pactola Lake has been withdrawn from mineral entry (see EA Figure 1-2). The USFS would be required to prepare a project specific amendment to the Forest Plan to authorize the drilling activities, despite the F3-proposed drilling locations coinciding with one of the areas that has not been withdrawn from mineral entry.



- | | | |
|---------------------------------------|---|---|
| ● Drill Pad (Alternative B) | Project Exclusion Area/Private Property | <u>Proposed Access Routes (Alternative C)</u> |
| ○ Drill Pad (Alternative C) | Existing USFS Roads Used | New Access Route |
| ⊗ Alternate Drill Pad (Alternative C) | <u>Proposed Access Routes (Alternative B)</u> | Alternate New Access Route |
| Staging Area (Alternative B) | New Access Route | Overland/Trail Access Route |
| Staging Area (Alternative C) | Overland/Trail Access Route | |
| Project Area | | |

**ALTERNATIVE B AND C
OVERVIEW**
Jenny Gulch Gold
Exploration Drilling Project
Final EA
Pennington County, SD

FIGURE 2-1

2.2.2.1 Drilling and Staging

Each drill site would have a maximum footprint of approximately 2,500 square feet (0.06 acres), where the drilling rig, rod tray, support vehicles, portable cutting tank, and water truck would be placed. Drill holes would range from 500 to 6,000 feet in depth dependent on the results of each hole. Although depths up to 6,000 feet could be approved, very few holes are planned to extend to this depth; most holes would be drilled to a depth of approximately 1,000 feet. Exploration drilling involves drilling holes vertically and at an angle from the surface. That angle can vary between -90 degrees (vertical) and -45 degrees. Once the angle is set, the drill will remain at that angle until completion of the drill hole. Directional drilling that controls the direction of the boring during drilling (as commonly used in oil and gas development) or horizontal drilling methods would not be used. The number of holes drilled on each drill pad would depend on the findings in the field, with the average drill pad having one to two holes and some having up to four holes. Depending on the results of preceding drill holes, some of the drill sites may not end up being required and would ultimately not be constructed. Between one and four holes would be drilled at a time, with drilling operations taking place 24-hours per day divided between two 12-hour shifts. Two Project staging areas (approximately 0.25 acres each) would be used to store equipment and tools. Drill pads and staging areas would result in a total of approximately 3 acres of temporary surface disturbance. Drill pad locations were selected based on local geology, subsurface target concepts, and surface conditions that allow F3 to best test its scientific theories while minimizing surface disturbance.

The drilling process proposed by F3 would use water mixed with industry standard drilling additives such as bentonite clays and muds or other natural and/or biodegradable additives to more efficiently and safely drill and seal boreholes. No other chemicals or solvents would be used in drilling. Any water used for the drilling would be sourced from an approved municipal or industrial source; no water would be sourced from Rapid Creek or other local surface waters. As summarized in Appendix E of the EA, water would be trucked from the municipal or industrial source to storage holding tanks either at a drill site and/or one of the staging areas. Approximately 5,000 to 10,000 gallons of water would be used per day per drill rig. During drilling activities, water would be circulated using a water pump with water lines transporting water from the storage tanks to the drill site. At the end of drilling operations, excess water would be disposed of at a municipal wastewater disposal location, in agreement with the municipality.

Drill cuttings and used water would be recovered and collected in tanks at the drill site. Settlement would be used to separate the cuttings, allowing the water to be reused in the drilling process. Upon completion of a drill hole, the cuttings would be either thin-spread and buried beneath the topsoil (which is the industry standard for low-sulfur cuttings management in the western U.S.) or transported off-site to an approved disposal location, as described in Section 2.2.1 of the EA. Spread drill cutting depth would be dependent on hole depth with most sites resulting in a spread drill cuttings depth of 0.25 inches; however, some sites (holes up to 6,000 feet deep) may result in up to approximately 1.50 inches of drill cuttings spread across the drill pad. Topsoil would be placed over the cuttings and reseeded/replanted to match surrounding vegetation. Burying cuttings on-site allows the cuttings to be protected from erosion until vegetation is re-established. Drill pads would be reclaimed upon completion of all drilling activities, as one reclamation effort at the end.

2.2.2.2 Site Access

Main access from the north would be from NFSR 261 (Jenny Gulch Road) via county Highway 237 (Rochford Road). The primary access from the south would be from NFSR 671 (Sunnyside Gulch Road) or NFSR 261 (Jenny Gulch Road) via Silver City Road. Additional NFSRs that are anticipated to be used for access include NFSR's 261, 720.2B, 671, 141.2B, and 261.2B. National Forest System Trails (NFST) 6207, 6209, and 6210 are also anticipated to be used for access; all of which allow motorized vehicle use. Approximately 5,280 feet (one mile) of existing local roadways noted above would be used to access Project features. In addition, approximately 4,700 linear feet (0.89 miles) of 8-foot wide temporary overland trails and/or temporary access route may be constructed for drill site access, resulting in less than 1 acre of additional temporary surface disturbance. These temporary overland trails would be obliterated and returned to natural conditions after Project completion. Existing access roads and overland trails would be improved only if needed and only to the extent necessary to gain access to the site. See Appendix B of the EA for additional information on access and transportation.

2.2.2.3 Proposed Equipment

F3 proposes to use the following equipment to complete drilling and associated restoration of the Project:

- One to four diamond drill rigs
- Drill rod racks with drill pipe and casing pipe
- Six to eight four-wheel drive pickup trucks for access to drilling sites
- Four all-terrain vehicles for access to drilling sites
- Two snowmobiles for access to drilling sites (for winter use only)
- One water truck, as needed to fill water storage tanks
- One excavator
- One dozer
- One skid-steer
- One to three water storage tanks, up to 10,000 gallons each in size
- Up to four water supply pumps
- Water line/hose, mud pump, and mixing tanks for grouting and/or cementing drill holes.

Drilling equipment (i.e., drill rigs, drill rod racks, drill pipe, casing pipe) would be used at each drilling site as this equipment is needed to perform the drilling. Other equipment, such as the excavator, dozer, and skid-steer would be used on an as-needed basis to facilitate access, maintenance, and reclamation. When not in use, this equipment would be stored at one of the staging areas.

2.2.2.4 Vegetation and Soil Removal

Tree clearing and other vegetation removal would be limited to only that which is needed to facilitate access (see Section 6.2 in Appendix C of the EA for additional information on vegetation removal). Any soils that may need to be removed for pad clearing would be stockpiled for later use in site reclamation.

2.2.2.5 Reclamation

Upon completion of drilling at each hole and prior to moving to the next site, the hole would be capped, sealed, and plugged per Administrative Rules of South Dakota 74:11:08.

Drill pads and staging areas would be reclaimed upon completion of drilling by re-grading the pads to pre-Project contours and reseeding with Black Hills reclamation seed mix, as noted in the PO. Safety signage would be removed from the area, and stockpiled brushed materials would be either spread over the drill pad area, stacked in soil-free piles, or disposed off-site at an approved facility. Overland trails used for access to drill pads would be re-seeded and returned to pre-existing conditions under the direction of the USFS. The draft reclamation plan for the Project is provided in Appendix A of the EA.

2.2.2.6 Monitoring and Implementation

F3 would be required to comply with any environmental compliance requirements issued by the USFS as part of the EA decision. In addition, F3 will be required to comply with all environmental requirements and conditions that may be issued in the other permits they are required to obtain before initiating the Project. F3 is required to submit a reclamation plan to the USFS prior to authorization for Project initiation in accordance with USFS Manual 2840. In addition, F3 is responsible for submitting a reclamation bond to the USFS for the Project, with the bond amount determined by the USFS. F3's PO would be administered by the USFS Minerals Specialist, and other governmental entities with permitting authority will be responsible for enforcing their permit conditions as they deem appropriate. Sites will be monitored for a minimum of three years after reclamation.

2.2.2.7 Applicant-Proposed Impact Minimization Measures

As part of their Plan of Operations, F3 intends to implement impact minimization measures, also known as design features, as summarized in Table 2-1. These measures have been developed in response to comments received during the Project scoping process.

Table 2-1 Summary of Applicant-Proposed Impact Minimization Measures

Issue	Applicant-Proposed Impact Minimization Measures
Access and Transportation	<ul style="list-style-type: none">• Overland trails used for access would be regraded and reseeded as directed by USFS.• Any road damage would be repaired as soon as possible based on contractor availability.• Contractor equipment would not exceed local road weight restrictions without prior approval by applicable authorities.• Traffic to and from the drill sites would be limited to site set-up, driller shift changes, management oversight, sample pickup, and site restoration.• Additional safety signage (construction use, warning signs, drill signs, trucks entering signs, etc.) would be posted throughout the work area to communicate construction equipment use of the road.
Botanical Resources/ Reclamation	<ul style="list-style-type: none">• Tree removal would be minimized by only removing what is absolutely necessary. In areas where tree removal is unavoidable, the affected area would be reseeded/replanted as part of reclamation with Black Hills seed mix.• Disturbed areas would be reclaimed and reseeded according to USFS standards.

Issue	Applicant-Proposed Impact Minimization Measures
Fisheries and Wildlife	<ul style="list-style-type: none"> • Drilling activities that stem off of Sunnyside Gulch Road in the southern part of the Project area could be restricted from April 15 – August 31 to avoid disturbance during the bighorn sheep lambing season should lambing be observed. Any potential restrictions would be coordinated and implemented at the direction of the USFS Wildlife Biologist and District Ranger. • Drill sites would not be located in limestone areas to avoid potential vertigo snail habitat disturbance. In addition, protection of the water influence zone (WIZ) surrounding streams/seeps/springs would also provide protection for vertigo snails. • Drilling within 500-feet of a known bat roost location would occur outside the pup-rearing season (June 1 through July 31). Any potential restrictions would be coordinated and implemented at the direction of the USFS Wildlife Biologist and District Ranger.
Geology, Geohydrology, Geochemistry & Soils	<ul style="list-style-type: none"> • Holding tanks would be used to store drilling water rather than sumps to minimize potential for sedimentation and infiltration. • All fuels and oils would be stored in appropriate and labeled containers or tanks with secondary containment to minimize any spill hazards. • Materials used for the Project would be stored either at staging areas or at the drill sites; materials would not be stored along access roads or other locations. • Any soils that may need to be removed for clearing drill pads or staging areas would be stockpiled on-site for later use in site reclamation. • Upon completion of a drill hole, the drill cuttings and fines would be dispersed in the disturbed area. • Topsoil would be placed on cuttings and reseeded/replanted as necessary to match surrounding vegetation. • Drill pads, staging areas and temporary overland trails would be reclaimed upon completion of all Project activities. • Drilling would primarily require the use of water. In addition to water, F3 may also use industry standard drilling additives such as bentonite clays and muds, or other natural and/or biodegradable additives, during drilling to more efficiently and safely drill and seal boreholes. No other chemicals or solvents would be used in drilling. Rock core, water, and fine-grained rock drill cuttings generated by drilling would be stored in holding tanks. Water would be recycled back into the drilling process, and drill cuttings would be disposed as noted above.
Hydrology – Water Quality/Quantity	<ul style="list-style-type: none"> • The only fluids used for the Project are fuel (for vehicles/machinery), oil (for vehicles/machinery), water, and industry standard drilling additives such as bentonite clays and muds or other natural and/or biodegradable additives. • All fuels and oils would be stored in appropriate and labeled containers or tanks with secondary containment to minimize any spill hazards. • Water would not be extracted from local surface waters; any water used for the drilling would be sourced from an approved municipal or industrial source. • Upon completion of drilling at each hole, the hole would be capped, sealed, and plugged per Administrative Rules of South Dakota 74:11:08. Drill holes would be sealed within 24 to 48 hours of drilling completion prior to moving the drill rig. • Casing will be used, when necessary, to protect groundwater in unconsolidated, surficial geologic units. The need for casing is expected to be minimal as most drilling is proposed directly on bedrock with little to no soil or surficial geologic units.

Issue	Applicant-Proposed Impact Minimization Measures
Public Health and Safety	<ul style="list-style-type: none"> • Residences in close proximity to drilling activities would be notified prior to Project initiation. • An emergency response plan would be developed for the Project and would be provided to local first responders in advance of Project initiation. This plan would be developed in coordination with local first responders and would address a number of emergency situations (i.e., fire, injury, etc.). • All drilling sites and staging areas would be equipped with spill kits to immediately address any fuel or oil spill. All fuels and oils would be stored in appropriate containers or tanks with secondary containment to minimize any spill hazards. • All vehicles, drill rigs, and other on-site equipment would be inspected as part of daily safety checks and will be equipped with more than one fire extinguisher, which would also be inspected routinely. • A site security plan would be developed prior to PO approval to maintain site safety and limit risk of public interference.

2.2.3 Alternative C (Modified Proposed Action)

Alternative C was developed in response to issues identified during Project scoping. This alternative meets the Project's purpose and need in a way that implements siting factors (i.e., factors that influence where features are sited or positioned) and additional mitigation measures to further minimize Project effects. The additional measures or siting differences included in Alternative C are summarized below. Specifically, Alternative C has been developed to minimize effects by avoiding cultural resources, eliminating the need for a Forest Plan Amendment, as discussed below, and to minimize effects to the water influence zone (WIZ). In order to minimize effects, additional drilling pads would be needed to achieve a comparable level of data collection as explained below.

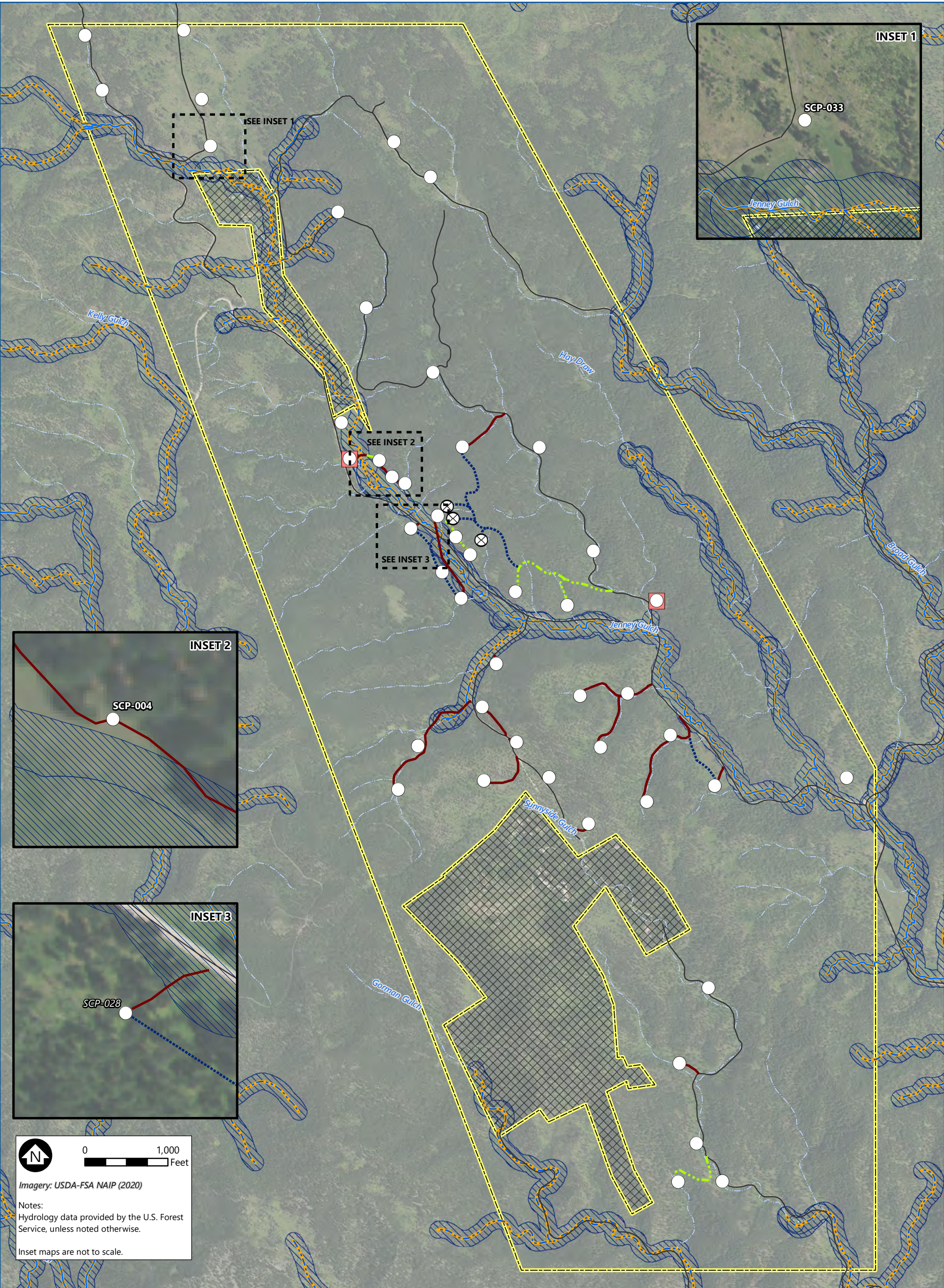
Alternative C proposes drilling 47 exploration drilling pads as shown in Figure 2-1; this number of drill pads in combination with the two staging areas would result in 3.3 acres of temporary surface disturbance. Alternative C relocates 5 drilling pads, one staging area, and associated access roads proposed in Alternative B to avoid effects to cultural resources; however, F3 has determined that additional drilling pads are needed to collect an equivalent level of information compared to Alternative B. Under Alternative C, approximately 5,700 feet (1.1 mile) of existing local roadways would be used to access Project features. In addition, up to approximately 9,925 linear feet (1.88 miles) of 12-foot wide temporary overland trails and/or temporary access route may be developed for drill site access, resulting in up to approximately 2.73 acres of additional temporary surface disturbance as compared to Alternative B. Alternative C would require a 12-foot wide access corridor to accommodate the more rugged terrain traversed compared to Alternative B.

Existing USFS administrative roads not open for public use (i.e., administrative roads), as defined in the USFS 2010 Travel Management Record of Decision, would be used to access sites to the extent practicable; in some cases, this may include travel through the WIZ on existing administrative roads. Locations accessed through the WIZ would be planned for winter construction to the extent practicable; however, should site conditions at the time of construction warrant these administrative roads unusable

(i.e., flooding in the WIZ or another reason), three drilling pads (SPC-045, SPC-046, and SPC-047) would be shifted to alternate locations to avoid traversing the WIZ (see Figure 2-1 in the EA); this shift has been accounted for in the access road measurements provided above. The use of alternate drill pad and access road locations would require coordination with and authorization by USFS engineers and the District Ranger.

As mentioned above in Section 2.2, Alternative B includes three drilling sites in an area designated by the Forest Plan as MA 8.2, Developed Recreation Complexes. Alternative C relocates these three drilling sites from MA 8.2 to avoid the need for a project-specific Forest Plan amendment (see EA Figure 2-2).

Alternative B includes three drilling sites immediately adjacent to USFS-identified WIZ. A WIZ is a designated zone adjacent to stream channels and other waterbodies for which focused efforts are made to maintain and improve water quality or other water and riparian dependent values such as habitat, recreation, and visual and aesthetic quality. In the interest of maintaining the integrity of established WIZ areas and minimizing water quality and recreation concerns, Alternative C relocates three drill sites outside of WIZ areas (Figure 2-2). To avoid the need for tree clearing and construction of new temporary site access, as mentioned above, it is possible that the WIZ may be crossed during frozen conditions to access certain drilling sites. If the WIZ is impassable without causing considerable damage to soils, wetlands, and other resources, three drilling pads immediately adjacent to the WIZ (SPC-45, SPC-46, and SPC-47) would be shifted to alternate locations to avoid traversing the WIZ, as shown on Figure 2-2. This would be determined on a case by case basis and in coordination with the Forest Service hydrologist, engineers, PO administrator, and District Ranger.



- | | | |
|---|--|----------------------------|
| ○ Drill Pad (Alternative C) | Proposed Access Routes (Alternative C) | ~ Intermittent Stream |
| ⊗ Alternate Drill Pad (Alternative C) | ~ New Access Route | ~ Perennial Stream |
| ■ Staging Area (Alternative C) | ~ Alternate New Access Route | ~ Protected Stream |
| ■ Project Area | ~ Overland/Trail Access Route | Water Influence Zone (WIZ) |
| ■ Project Exclusion Area/Private Property | <u>Hydrology Data</u> | |
| ~ Existing USFS Roads Used | ~ Ephemeral Stream | |

**ALTERNATIVE C
WIZ AVOIDANCE**
Jenny Gulch Gold
Exploration Drilling Project
Final EA
Pennington County, SD

FIGURE 2-2

The impact minimization measures noted in Table 2-1 would be applied to both Alternative B and Alternative C; however, Alternative C would also include impact minimization measures beyond those noted in Table 2-1; these additional impact minimization measures are summarized in Table 2-2.

Table 2-2 Summary of Alternative C Additional USFS-Identified Impact Minimization Measures

Issue	Additional Impact Minimization Measures
Botanical Resources/ Reclamation	<ul style="list-style-type: none"> Each drill pad and temporary overland access route would be reclaimed immediately upon completion of use rather than upon completion of all drilling activities.
Cultural/Heritage Resources	<ul style="list-style-type: none"> Relocates drilling pads and access roads to avoid potential cultural resources conflicts.
Public Health and Safety	<ul style="list-style-type: none"> Drilling pads within 500 feet of a residence would limit drilling to one, 12-hour daytime shift (7:00am – 7:00pm) to mitigate nighttime noise potential. This applies to drill pads SCP-012 and SCP-020.
Hydrology – Water Quality/Water Supply	<ul style="list-style-type: none"> Alternative C includes a provision that the WIZ may be crossed during frozen conditions to access certain sites; however, if seasonal conditions indicate the WIZ is impassable without causing considerable damage to soils, wetlands, and other resources, the three drilling pads immediately adjacent to the WIZ (SPC-045, SPC-046, and SPC-047) would be shifted to alternate locations to avoid traversing the WIZ. The use of alternate drill pad and access road locations would require coordination with and authorization by USFS engineers and the District Ranger.
Recreation and Travel Management	<ul style="list-style-type: none"> Alternative C relocates three drill pads from MA 8.2, which is managed for recreational opportunities and visual qualities adjacent to developed recreation sites and bodies of water. Alternative C relocates three drill pads (SPC-45, SPC-46, and SPC-47) from WIZ areas in the interest of maintaining WIZ integrity and minimizing water quality and recreation concerns.

3 Decision

This DN documents my decision and rationale with respect to the proposed Project as presented in the EA.

3.1 Decision Authority

The District Ranger of the Mystic Ranger District on the Black Hills National Forest is the delegated lead agency's responsible official for this National Environmental Policy Act review of the Jenny Gulch PO. The District Ranger's decision space is in accordance with Forest Service regulations that govern locatable mineral activities on National Forest System lands (36 CFR 228, subpart A) and other applicable laws and regulations. These regulations require that the Forest Service respond to parties who submit a proposed PO for approval to conduct operations authorized by the United States mining laws on National Forest System lands for part or all of their planned actions including mining, mineral processing, and uses reasonably incident thereto.

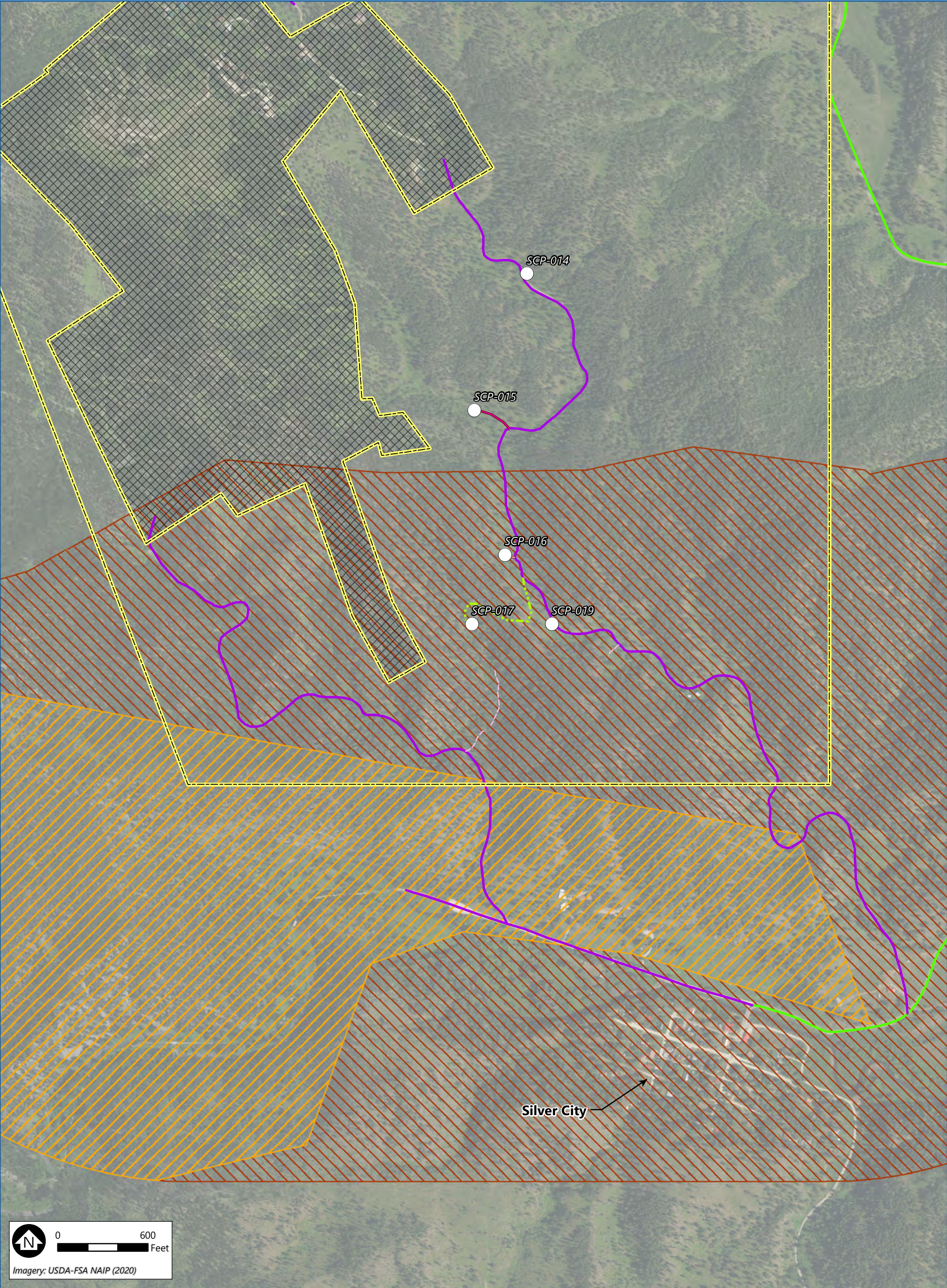
The Forest Service's consideration of operations authorized by the United States mining laws on National Forest System lands are governed by the General Mining Law of 1872 as amended, the Organic Act of 1897, and the Surface Resources Act of 1955, among other statutory authorities. The Forest Service's regulations at 36 CFR 228, subpart A set forth the rules through which use of the surface of National Forest System lands in connection with mining and mineral process operations shall be conducted so as to minimize adverse environmental impacts on surface resources where feasible.

3.2 Decision Selected: Alternative C Modified (Selected Alternative)

Given the Project's purpose and need, I have reviewed all actions, including the proposed action (Alternative B), the issues identified during the scoping period, and the environmental consequences of implementing each alternative disclosed in the EA. Based on this review, **I have decided to implement Alternative C (Alternative C; Selected Alternative) with an additional minimization measure to address bighorn sheep.**

Scoping and Draft EA comments received from the South Dakota Department of Agriculture and Natural Resources (SD DANR) and the public indicated concern for potential effects to bighorn sheep lambing areas as a result of the Project (see EA Appendix H and Appendix I). Concerns from the SD DANR were discussed with the USFS in December 2021. As a result of this discussion, USFS has selected a modified version of Alternative C, described below, as the preferred alternative for the Project.

Alternative C Modified introduces a timing restriction to further minimize potential effects to bighorn sheep during the lambing season. Although no Project features are located within bighorn sheep lambing areas, three drill pads (SCP-016, SCP-017, and SCP-019) are located in an area identified as bighorn sheep summer range (Figure 3-1). Alternative C Modified is the same as Alternative C, but it restricts construction and operation of these drill pads from May 1 to June 15 to further minimize potential effects to bighorn sheep during the lambing season. In addition to this timing restriction, Alternative C Modified would also incorporate all of the impact minimization measures noted in Table 2-1 and Table 2-2.



- Drill Pad (Alternative C)
- Project Area
- Project Exclusion Area/Private Property
- Bighorn Sheep Summer Use Area
- Bighorn Sheep Lambing Area
- Existing USFS Roads to be Utilized
- Only Highway Legal Vehicles
- Public Road

- Proposed Access Routes (Alternative B)
- New Access Route
- Overland/Trail Access Route
- Proposed Access Routes (Alternative C)
- New Access Route
- Overland/Trail Access Route

**ALTERNATIVE C SITES
WITH BIGHORN SHEEP
TIMING RESTRICTIONS**
*Wildlife and Fisheries Biological
Assessment/Biological Evaluation
and Technical Reportt
Jenny Gulch Exploration
Drilling Project
Pennington County, SD*
FIGURE 3-1

3.3 Decision Rationale

The Selected Alternative (Alternative C Modified) was developed to minimize Project impacts across evaluated environmental issues. The Selected Alternative includes both Alternatives B and C's impact minimization measures, as noted in Table 2-1 and Table 2-2, and maintains the Project's intent, but with modifications intended to further minimize environmental effects. Table 3-1 provides a comparison of key elements that vary between Project alternatives, including the Selected Alternative.

The Selected Alternative proposes more potential drill pads and associated access routes, and subsequently greater surface disturbance than the Proposed Action. However, the Selected Alternative best minimizes effects to key environmental resources compared to other Project alternatives in the following ways:

- Avoiding cultural resources effects by relocating drill pads and access to avoid cultural resources conflicts;
- Avoids placing drill pads in areas that would require a Forest Plan amendment to authorize drilling;
- Avoids placement of drill pads in the WIZ;
- Minimizes potential effect to bighorn sheep by restricting construction and operations at drill sites SCP-016, SCP-017, and SCP-019 from May 1 to June 15, which the SD DANR identifies as a particularly sensitive time in the species lambing season; and
- Minimizes the duration of Project-related disturbance by completing reclamation upon completion of drilling at each site instead of upon completion of all drilling activities Project-wide.

I have determined that my decision is consistent with all laws, regulations, and agency policy identified in Section 1.3 of the EA, and I have considered potential cumulative effects (see EA Section 3.10), respectively). I believe the Selected Alternative provides the best balance of responding to the Project's purpose and need, while also minimizing impacts to National Forest System lands. I also considered agency and public input in developing minimization measures incorporated in my decision.

My decision was made after careful consideration of many factors including, but not limited to, meeting the intent of the purpose of and need for the action as described in Section 1.1 (Purpose of and Need); compliance with applicable laws and regulations as described in Section 1.3 of the EA (Applicable Laws, Regulations, and Policies); evaluation of the potential environmental consequences of the alternatives in the EA; input and comments received from the public, tribes, cooperating agencies, and the proponent; and review of information in the Project record.

The EA and Project record demonstrate a thorough examination of relevant and best available scientific information, consideration of responsible opposing views, and acknowledgment of incomplete or unavailable information, scientific uncertainty, and risk. I have also taken into consideration the degree to which the applicant-committed impact minimization measures, as well as the monitoring and mitigation measures required by the Forest Service, will reasonably reduce potential impacts on the environment,

and the predicted effects of the action alternatives on resources considered in the EA. This decision under NEPA does not approve or initiate implementation of the PO. Approval of a PO is a separate action regulated under 36 CFR 228, subpart A. Refer to section 4.0, "Plan of Operations Implementation," for additional information on the process for mining plan of operations approval and implementation.

Table 3-1 Project Alternative Comparison Summary

Feature or Issue	Alternative A (No Action)	Alternative B (Proposed Action)	Alternative C (Modified Proposed Action)
Maximum Number of Drill Pads	n/a	42	47
Number of Staging Areas	n/a	2	2
Drill Pad and Staging Area Disturbance Footprint	n/a	3.0 acres	3.3 acres
Access Parameters	n/a	1 miles of existing local roadways 0.89 miles of 8-foot wide temporary overland trails and/or temporary access road	1.1 miles of existing local roadways 1.88 miles of 12-foot wide temporary overland trails and/or temporary access roads to accommodate terrain
New Access Disturbance	n/a	0.86 acres	2.73 acres
Cultural Resources Conflicts	No	Yes	No
Forest Plan Conflicts	No	Yes	No
WIZ Conflicts	No	Yes	No
Bighorn Sheep Lambing	n/a	No restrictions	*Construction and operations at drill sites SCP-016, SCP-017, and SCP-019 restricted from May 1 to June 15
Reclamation	n/a	Upon completion of all drilling	Upon completion of drilling at each site

*This additional measure was added by the District Ranger as part of the decision.

4 Plan of Operations Implementation

4.1 Forest Service Requirements

The proposed operations outlined in the final PO cannot commence on National Forest System lands without written approval from the Forest Service as described in 36 CFR 228.5(a). Approval of the PO does not constitute recognition or certification of ownership to any person. Furthermore, approval of the PO does not constitute recognition or certification of the validity of any mining claim to which it may relate or to the mineral character of the land on which it lies. The Forest Service has sole authority to approve and administer the mining plan of operations to standard. This Decision Notice does not approve commencement of operations; rather, it indicates the intent of the agency to approve the final PO once required criteria have been met, as described below.

4.1.1 Final Plan of Operations with Decision Requirements Incorporated

F3 will submit a signed, revised PO that incorporates all the requirements in this document and required by authority if they elected to not appeal the decision under 36 CFR 214. This includes the incorporation of mitigation measures outlined here that have been determined necessary to minimize potential adverse impacts on National Forest System surface resources along with the "Terms and Conditions" found on the agency form FS 2800-05 section VII. Note that some of the Forest Service requirements include the submittal and approval of a series of plans that outline additional details for the operation under the selected action. While the need for additional plans required in the final PO depend on the project, the USFS identifies PO operating conditions for fire prevention, public safety signage, topsoil management, road use and maintenance, timber, petroleum product storage, weed management, and revegetation/reclamation. The USFS will review all plans to ensure consistency with final EA and this DN and ensure they have been properly incorporated into the PO prior to approval.

4.1.2 Financial Assurance

The Forest Service is authorized (36 CFR 228.13) and will require the proponent, F3, to furnish a financial assurance or guarantee of faithful performance with the terms and conditions outlined in the final PO, including the requirements of this DN. The financial assurance ensures reclamation of surface disturbances to National Forest System lands in order to prevent or control damage to the environment. All operations shall be conducted so that, where feasible, they minimize adverse environmental impacts on National Forest System surface resources, including the following (see 36 CFR 228.8): air quality, water quality, solid wastes, scenic values, fisheries and wildlife habitat, roads, and reclamation.

The financial assurance amount is the agencies' estimated cost to complete site reclamation on National Forest System lands in the event that the proponent cannot or will not perform the required reclamation. The Forest Service has developed guidance for calculating the amount of financial assurance required for mining projects, and it must be developed or reviewed by a Certified Locatable Minerals Administrator (Forest Service 2004). This guidance includes costs for the government to remove structures and equipment, regrade and recontour the surface, revegetate the reclaimed land, and it accounts for costs for long-term monitoring and maintenance costs, if such were to be required to meet applicable laws and regulations. The financial assurance will also include necessary administrative and overhead costs as described in the 2004 Forest Service Training Guide for Reclamation Bond Estimate and Administration (Forest Service 2004), to complete the reclamation on National Forest System lands if the company were unable or unwilling to do so.

Financial assurance release is performance based and is granted or denied based on the agencies' evaluation. Performance criteria for activities and actions covered by the bond shall be developed and established in the PO. These criteria must be met prior to partial or full bond release unless otherwise agreed to by the Forest Service. There is no specific time frame for bond release once reclamation activities have been completed. When the Forest Service has accepted as complete any portion of the reclamation, the authorized officer shall notify the operator of such acceptance and adjust the amount of bond financial assurance thereafter to be required with respect to the remaining reclamation. When

reclamation has been completed in accordance with 36 CFR 228.8(g), the authorized officer will notify the proponent that performance under the financial assurance bond has been completed (36 CFR 228.13(d)).

The Forest Service process does not require calculation of the financial assurance bond prior to publication of the final EA or completion of the National Environmental Policy Act process, as the financial assurance bond must reflect all activities and mitigations required under the selected action of this decision.

4.1.3 Clean Water Act

As stated in Forest Service Manual 2817.23a, both the Forest Service and the proponent have Clean Water Act requirements to meet. If the mining activity “may result in any discharge into the navigable waters” (Clean Water Act, Title IV, § 401(a) (1), 33 USC 1341(a), 1972) the mining operator must obtain a 401- certification from the designated Clean Water Act Federal, State, or tribal entity, typically the State. This 401- certification from the designated entity certifies that the operator’s mining activities and associated best management practices, mitigation, or reclamation are in compliance with applicable provisions of State, Federal or tribal water quality requirements of the Clean Water Act. If 401- certification is required, the proponent must provide a copy to the Forest Service prior to the agency approving the final PO. Pursuant to the Clean Water Act, the Forest Service cannot authorize a plan of operations until the 401- certification has been obtained or waived by the designated entity.

4.2 Other Agency Requirements

The proponent is responsible for compliance with all other federal, state, and local requirements. The Forest Service approval of the final PO does not relieve the proponent of their responsibility to comply with other applicable state or federal laws, rules, or regulations.

4.3 Procedures for Change During Implementation

4.3.1 Modification to a Plan of Operations

Modifications to the plan of operations may either be proposed by the proponent or requested by the Forest Service for reasons such as unforeseen significant impacts on surface resources. If a modification is proposed, it will be reviewed by the Forest Service and a determination made whether the actions would require additional review under the National Environmental Policy Act. Connected or interrelated proposed changes regarding particular areas or specific activities will be considered together in making this determination.

4.3.2 Non-Compliance with Plan of Operation

Should the proponent be non-compliant with the final plan of operations, the Forest Service would take appropriate action, which could include enforcement or consultation with the appropriate entities to determine whether further action may be needed. If the proponent fails to comply with the regulations or the approved plan of operations and the non-compliance is unnecessarily or unreasonably causing injury, loss, or damage to surface resources, the authorized officer will serve a notice of non-compliance upon the operator in accordance with 36 CFR 228.7. Furthermore, if the proponent is notified of a non-

compliance by another permitting agency that could directly or indirectly impact National Forest System lands and resources, the proponent is responsible for notifying the Forest Service of the situation in a timely manner. Acting within its authority, the Forest Service will review the situation and determine whether and what action may be needed by the Forest Service.

5 Finding of No Significant Impact

This EA is conducted according to the CEQs 1978 regulations for implementing the procedural provisions of NEPA (40 CFR §§1500-1508, as amended). The CEQ issued revised regulations for implementing the procedural provisions of NEPA, effective September 14, 2020. The revised regulations provide the responsible official the option of conducting an environmental analysis under the 1978 regulations if the process was initiated prior to September 14, 2020 (40 CFR §1506.13, 85 FR 137, p. 43373, July 16, 2020). This EA follows the 1978 regulations because scoping for this Project was originally initiated in 2020.

CEQ regulations define a FONSI as a document by a Federal agency briefly presenting the reasons why an action, not otherwise excluded (§1508.4), will not have a significant effect on the human environment and for which an EIS therefore will not be prepared. It shall include the EA or a summary of it and shall note any other environmental documents related to it (§1501.7(a)(5)). The FONSI has been combined with the EA; as such there will not be a summary of the effects in the DN. The EA is incorporated by reference and cited where the significance factor is discussed in the analysis (40 CFR 1508.13).

As the responsible official, I am responsible for evaluating the effects of the Project relative to the definition of significance established by the CEQ Regulations (40 CFR 1508.27). I have reviewed and considered the EA and documentation included in the Project record, and I have determined that the Selected Alternative will not have a significant effect on the quality of the human environment. As a result, no EIS will be prepared. The rationale for this finding is as follows, organized by sub-section of the CEQ definition of significance cited above.

5.1 Context

For the proposed action and alternatives, the context of the environmental effects is based on the environmental analysis in the Jenny Gulch EA. Areas of Project impact are limited in size, and Project activities are limited in scope and duration. The context is limited to the Project area with minimal disturbance (up to 6.1 acres) and Project activity being short-term in nature occurring for approximately one year. For the proposed action and alternatives, the context of the environmental impacts is based on the analysis in the EA.

5.2 Intensity

Intensity is a measure of the severity, extent, or quantity of effects, and is based on information from the effects analysis of this EA and the references in the Project record. The effects of this Project have been appropriately and thoroughly considered with an analysis that is responsive to concerns and issues raised through scoping and Draft EA review. The agency has taken a hard look at the environmental effects using relevant scientific information and knowledge of site-specific conditions gained from field visits. My

finding of no significant impact is based on the context of the Project and intensity of effects using the ten factors identified in 40 CFR 1508.27(b).

1. Impacts that may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial.

Both adverse and beneficial Project impacts of this decision are addressed in Chapter 3 of the EA, and no significant impacts were identified. My decision is not biased by any beneficial effects of the Selected Alternative. This decision is based on design criteria and mitigation measures that have been established for the Selected Alternative (see Section 2.2.3, Table 2-1, and Table 2-2).

2. The degree to which the proposed action affects public health or safety.

There will be no significant impacts on public health and safety as no significant public health and safety issues were identified during the analysis process (see Appendix F of the EA). The Selected Alternative implements measures to minimize public health and safety effects, and all related effects will be temporary in nature.

3. Unique characteristics of the geographic area such as the proximity to historical or cultural resources, parklands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.

There will be no significant impacts on unique characteristics of the area, such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical area. The Selected Alternative specifically avoids impact to historic or cultural resources and impacts to the WIZ. Design criteria have been implemented to minimize impacts to waterways and adjacent wetlands and a bighorn sheep lambing area; there are no farmlands, wild and scenic rivers, other designated ecologically critical areas, or designated unique areas present in the Project area. For these reasons, there will be no significant effects on unique characteristics of the area.

4. The degree to which the effects on the quality of the human environment are likely to be highly controversial.

The effects on the quality of the human environment are not likely to be highly controversial. The effects on water quality, noise, light, traffic, and other environmental issues have been evaluated, avoided, minimized, or mitigated, and documented in the EA. There is no scientific controversy over the effects of this Project.

5. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.

The effects on the human environment are not highly uncertain, and are unlikely to involve unique or unknown risks. The Project is not unlike others or similar well drilling activities that have been conducted in the BHNF or elsewhere.

6. The degree to which the action may establish precedent for future actions with significant effects or represents a decision in principle about a future consideration.

The Selected Alternative is not likely to establish a precedent for future actions with significant effects. The action does not represent a decision in principle about future considerations. Similar projects

conducted in the future would be independent of this decision and would be evaluated and disclosed as required by NEPA for the significance of the effects of those specific actions.

7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.

The other past, present, and reasonably foreseeable future actions considered in the determination of cumulative impacts in this environmental analysis are discussed in Section 3.10 of the EA. The cumulative impacts of the Selected Alternative, considered with other past, present, and reasonably foreseeable actions are not significant.

8. The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.

The potential effects on cultural resources have been considered in this analysis. No adverse effects are anticipated. An intensive heritage resource inventory of all areas that could be disturbed by the Project was conducted. The report was submitted to SHPO on August 2, 2021 and to THPO offices on July 2, 2021 for review and comment. SHPO concurred with the recommendation of no adverse effects for the Selected Alternative because it relocates access and drill pad features to avoid cultural resources.

9. The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.

The Selected Alternative will not adversely affect federally-designated critical habitat under the Endangered Species Act of 1973 because federally-designated critical habitat does not occur in the Project area. The Selected Alternative will not adversely affect any endangered or threatened species under the Endangered Species Act of 1973 because, as documented in Section 3.5 and Appendix D of the EA, the Project does not pose a significant adverse effect to federally endangered or threatened species. A determination for Forest Service Region 2 sensitive species for the Selected Alternative found that there will be no trend towards Federal listing or loss of viability in the Project area, as documented in Appendix C and Appendix D of the EA. In addition, a Management Indicator Species (MIS) were reviewed and it was determined that the Project, its relationship to MIS species, and the types of habitats they represent are not expected to impact the viability of these species in the future, as documented in Appendix D of the EA.

10. Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

The Selected Alternative will not violate federal, state, or local laws or requirements for protection of the environment. Applicable laws and regulations were considered in Chapter 1 of the EA. All state and federal requirements and applicable permit conditions will be met. Environmental effects are documented in the EA and technical appendices, and design criteria were implemented to minimize Project-related effects. No violations of laws and regulations were identified in the environmental effects analysis. The Selected Alternative is consistent with the BHNF Land and Resource Management Plan.

The effects analysis in the EA and technical appendices considered both the context and the intensity of the action in determining its significance as outlined in 40 CFR 1508.27. Based upon the analysis, I have determined that the Selected Alternative will not significantly affect the human environment and that an EIS will not be prepared.

6 Contact

For additional information concerning this decision, contact Jessica Eggers, NEPA Planner, or myself at 605-343-1567. For further information on the Forest Service objection process, contact Lou Conroy, Forest Environmental Coordinator, at 8221 Mount Rushmore Road, Rapid City, SD 57702, phone 605-673-9200.

Jim Gubbels
District Ranger, Mystic Ranger District
Black Hills National Forest
USDA Forest Service

Date