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# Desecration and Exploitation of the Black Hills, South Dakota Indigenous Sacred Site

For the 139th Session of the Human Rights Committee, Geneva

October 9 – November 3, 2023

*Joint Coalition Submission to the UN Human Rights Committee Reviewing the Fifth  
Periodic Report of the United States Under the International Covenant on Civil and  
Political Rights (ICCPR)*

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September 12, 2023

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## **Desecration and Exploitation of the Black Hills, South Dakota Indigenous Sacred Site**

### **I. Issue Summary**

The American landscape we know today is marked by a history of genocide, forced relocations, and the search for one people's freedom at the cost of many others. The Indigenous populations across this land were subject to atrocities including mass murder, family separation, starvation and displacement to often unfamiliar territory to create what is now the United States. Once removed from sight, Indigenous voices have been stifled by the conditions on reservations and the legacy of settler colonialism.<sup>1</sup>

Through treaties and other agreements, the United States and Tribal Nations entered into government-to-government relationships, the federal government acknowledging Tribes' existence as sovereign nations predating the U.S. In exchange for vast swaths of ancestral territory—nearly the entire country—the federal government assumed a trust relationship with the Tribes. It legally bound itself to provide for the education, health, and well-being of Native American peoples and agreed to hold tribal lands in trust for Tribes. This was to also include a respect for Tribes' self-determination and to provide federal protections for sacred and burial sites and the rights to hunt, fish and gather.

As with all the treaties the U.S. federal government entered into, these guarantees and promises to Tribes to protect their lands and sovereignty have been broken. These broken promises take the present-day form of pollution, appropriation of Tribal lands, extraction of natural resources and interference with meaningful access to Indigenous lands and sacred sites.

While desecration of sacred Indigenous sites occurs nationwide, one particularly egregious example is the Black Hills of South Dakota. Historically, the Lakota Peoples were the last forced onto a reservation after the massacre of several hundred Indigenous women, children and men at Wounded Knee.<sup>2</sup> The leaders of the Tribes were arrested, labeled “insane” and held in “insane asylums” in order to forcibly disrupt Indigenous communities and Tribes. One such institution was the *Asylum for Insane Indians* in Canton, South Dakota, which operated from 1902 until 1934. “Canton was not designed to take care of the mentally ill. It was more used to incarcerate [Indigenous] individuals who refused to conform to the strict laws of a foreign government system which labeled them mentally ill in order to confine, constrict and keep them from influencing others to do the same.”<sup>3</sup>

During the government's land-grab, Indigenous families were torn apart, children forced to attend boarding schools where their identity was stripped from them and any attempt to show Indigeneity or to escape was severely punished. Native children in the forced boarding schools were brainwashed to show no attachment to their family, culture, identity and religion and if they did, they were beaten, humiliated, their heads were shaved, and they were sent to even stricter facilities as punishment.

Indigenous families who were hunters were forced to give up their only way of survival and learn agrarian ways, which were foreign and often limited to sections of land not suitable for farming.<sup>4</sup> The effects of colonization in South Dakota include generations of Native Americans

whose parents, grand-parents, and great-grandparents were forced by the American government to internalize survival adaptations that have lingered throughout their lineage causing incredibly difficult circumstances to overcome.

This violent past continues today through ongoing government-led interference with Indigenous Peoples' access and ownership to ancestral lands in the Black Hills of South Dakota. Under the 1868 Treaty of Fort Laramie, the Sioux Nation Tribes are the legal and rightful owners of the Black Hills, South Dakota.<sup>5</sup> Even though the later Act of February 28, 1877,<sup>6</sup> purportedly took the Black Hills from the Sioux Nation, many tribes continue to dispute the legality of this action by the U.S. Government. The Sioux Nations obtained a ruling by the U.S. Court of Federal Claims that the Act of 1877 violated the Fifth Amendment.<sup>7</sup> The court ruled the Sioux Nations were entitled to monetary damages, which they rejected, because accepting the money would relinquish their land claims.<sup>8</sup>

Indigenous Peoples consider the Black Hills sacred in their entirety. The Sioux Nation Tribes have never relinquished ownership of the Black Hills; have never accepted payment for the illegal taking of it; nor have the Tribes ever agreed to sell the Black Hills to the United States. To this day, the Sioux Nation Tribes continue to fight for this sacred land as sovereign Native Nations.

While this legal battle continues seeking legal declaration and restoration of the Black Hills to the Sioux Nation Tribes, its natural resources and sacred sites continue to be in perilous status under the government's management. First, the devastating effects of mining and trespass onto the Black Hills interferes with Indigenous religious ceremonies that take place within several individual sacred sites in the Black Hills. Second, the dire health effects that the long history of mining in the area have caused to Indigenous Peoples through the arsenic and heavy metal pollution of the rivers and waterways within the Black Hills are untold.

These actions violate tribal sovereignty guaranteed to the Sioux Nation Tribes under the U.S. Constitution and federal laws; all Indigenous People's First Amendment rights to exercise their religious beliefs; and Indigenous Peoples' self-determination rights and their very lives and existence through the ongoing harm to their physical and mental health.

There are presently 248,000 acres of active mining claims in the Black Hills, representing a sharp increase from 76,700 acres since April 2022.<sup>9</sup> Because the entire Black Hills are illegally occupied treaty lands, all claims to mining rights anywhere in this region are not and never were legitimate.<sup>10</sup> The withdrawal of the Rapid Creek Watershed and entirety of the Black Hills<sup>11</sup> from all future mining, as requested by the Great Plains Tribal Water Alliance<sup>12</sup> should be approved to give effect and to enforce the 1868 Treaty of Fort Laramie.

### *The Sacred Black Hills*

*“Ever since the Black Hills were illegally annexed and up until the present-day illegal occupation by the U.S. federal government and the state of South Dakota, the Očeti Šakówiŋ (Sioux Nation), Cheyenne, Arapaho, and other signatory nations of the 1851 and 1868 Fort Laramie Treaties have been seeking land back. The Black Hills area contains highly cherished and integral sacred sites inextricably linked to Lakota cosmology and practiced worldviews. The U.S. Supreme Court has*

*held that the Black Hills dealings were among the most dishonest in the short history of these United States of America. Current circumstances call for truth, reconciliation, and healing.”*<sup>13</sup>

Separate from its ownership, the Black Hills remains sacred within Indigenous religious, spiritual and cultural contexts. The Black Hills are known to the Lakota Peoples as “Paha Sapa,” which are also commonly referred to as, “The Heart of Everything that is,” signifying the importance of the Black Hills to the Lakota People.

Manifestly, the Lakota people and the Black Hills are deeply connected through stories that demonstrate the sacredness of the land. It is inherent in Lakota spiritual and cultural understanding that this land holds infinite significance, and it is thus the obligation of the people of the earth to protect and preserve its sanctity.<sup>14</sup>

The sacredness of the Black Hills is also recognized by several other Indigenous Peoples and Tribes, including the Dakota, Nakota, Cheyenne, Omaha, Arapaho, Kowa and Kiowa-Apache Peoples, who all reference the Black Hills in their history and lore.

Indeed, the United States Forest Service has acknowledged that the Black Hills currently maintains a nation-to-nation relationship with 16 federally recognized Indian tribes from across multiple states including South Dakota, North Dakota, Oklahoma, Wyoming, Nebraska, Montana and Utah that have aboriginal territories and traditional ties to the Black Hills. These tribes are:

- Cheyenne River Sioux Tribe of the Cheyenne River Reservation
- Cheyenne and Arapaho Tribes
- Crow Creek Sioux Tribe of the Crow Creek Reservation
- Eastern Shoshone Tribe of the Wind River Reservation
- Flandreau Santee Sioux Tribe
- Lower Brule Sioux Tribe of the Lower Brule Reservation
- Three Affiliated Tribes of the Fort Berthold Reservation (Mandan, Hidatsa, and Arikara)
- Northern Arapaho Tribe of the Wind River Reservation
- Northern Cheyenne Tribe of the Northern Cheyenne, Montana Indian Reservation
- Oglala Sioux Tribe
- Rosebud Sioux Tribe of the Rosebud Indian Reservation
- Santee Sioux Nation
- Sisseton Wahpeton Oyate of the Lake Traverse Reservation
- Spirit Lake Tribe
- Standing Rock Sioux Tribe
- Yankton Sioux Tribe<sup>15</sup>

Additionally, five other tribes have an interest in the Black Hills based on cultural and traditional ties, including the Crow Tribe, Kiowa Indian Tribe, Apache Tribe, Comanche Nation, and Ute Indian Tribe of the Uintah and Ouray Reservation.<sup>16</sup> As the U.S. Forest Service has acknowledged, “These tribes maintain interest in the homeland-related traditions of their people and are consistently look[ing] for opportunities to re-establish their connection to their ancestral landscape [].”<sup>17</sup> And, it is undisputed that “certain geographical areas and resource types have particular meaning to tribes affiliated to the Black Hills [], including, but not limited to, prominent

topographic and landscape features; stone circles, cairns, and game drives; and rock art. Most, if not all tribes, consider archaeological and historical sites as significant ancestral sites. [] [R]esources that are commonly classified as natural resources may also have value to certain groups as cultural resources, including certain plants, animals, water, or even landscapes.”<sup>18</sup>

Indigenous Peoples worship in the Black Hills at several individual sacred sites including Pe’Sla – (Reynold’s Prairie), Heháka Sápa, – Black Elk Peak; Mathó Pahá – Bear Butte; Mathó Thípila – Bear’s Lodge (Devil’s Tower); and Wasun Niya – Wind Cave. Other sacred sites include the Racetrack (Red Valley), Buffalo Gap, Craven Canyon, Red Canyon, Gillette Prairie, Danby Park, Hot Springs – Minnekahta area, Inyan Kara Mountain, Black Butte, White Butte, Rapid Creek Valley, Sundance Mountain (Cheyenne), Medicine Wheel Site (Cheyenne), and Stone Buffalo Horn (Cheyenne).<sup>19</sup> These sacred areas are within the Black Hills and continue to serve as a place of pilgrimage for Indigenous Peoples who perform prayers, songs, vision quests and sweat lodges for religious, spiritual and cultural purposes.

Within the Rapid Creek Watershed is Pe’Sla (Reynold’s Prairie), which the Oceti Sakowin, Seven Council Fires of the Lakota, Nakota, Dakota Oyate (“Sioux Nation”), have revered the high-mountain prairie as a sacred site for time immemorial. Pe’Sla was originally protected by the 1868 Treaty of Fort Laramie until the United States unconstitutionally seized the land in the aftermath of the Battle of the Little Bighorn in 1876, when Pe’Sla was sold for non-Indian homesteads and used to graze cattle. Several Tribes organized to re-purchase the Pe’Sla sacred site in 2016 and the Bureau of Indian Affairs (“BIA”) placed the land back into Indian Trust.<sup>20</sup>

Additionally, visual representations of the spiritual ceremonies are present throughout the Black Hills. For example, hikes to Black Elk Peak reveal hundreds of ribbons tied to trees, denoting the religious significance of the area. Rituals and ceremonies like the Sun Dance ceremony continue to take place in and near the Rapid Creek Watershed. The Inyan Kara Mountain nearby is also known as the Lakota’s “special place of creation” and is traditionally visited as part of preparation for the Sun Dance ceremony.

#### *Effects of Mineral Extractions*

The continued operation of mines destroy these sacred sites and preclude safe access to them. The presence of pollutants like arsenic and other chemical contaminants caused by the mining process have not only desecrated the Black Hills but continue to actively interfere with, defeat and prevent the ability of Indigenous Peoples to practice religious ceremonies which are intricately tied to the protection of natural resources like water, wildlife and forests. Destruction of the natural resources and blocking of access around the area through mining operations directly harms the ability to perform Indigenous religious ceremonies. The ongoing mining and occupation of these sacred sites interferes with Indigenous religious beliefs that require the protection, honoring, celebrating and worshipping of natural resources as a source of all life.

This type of harm and violence to Indigenous Peoples’ religious beliefs and culture is a continuation of the horrific genocidal and assimilation policies, described above, that the United States inflicted upon Indigenous Peoples since colonization. Continued mining of the Black Hills

is an insidious modern-day equivalent to the past prohibition of Indigenous religious beliefs and ceremonies. It must be condemned and discontinued permanently.

Genuine and identifiable health concerns resulting from mining in the Black Hills threaten the very existence of Indigenous Peoples and other residents in the region. Indigenous Peoples have long cared for the rivers, streams and lakes in the Rapid Creek Watershed as a source of life to all living creatures and they have always relied upon waterways for spiritual and cultural purposes. Water is sacred to Indigenous Peoples as the “first medicine,” leading to Indigenous beliefs that natural waters and forest ecosystems should be protected. The Rapid Creek Watershed supplies vital drinking water to approximately 100,000 people upstream and downstream in rural and tribal communities. Rapid Creek is known in Lakota as “Mniluzuhan-Mni,” and is approximately 86 miles long. Rapid Creek originates in the Black Hills and runs east into the Pactola Reservoir. From the Pactola Reservoir, Rapid Creek flows through Rapid City, South Dakota, the second largest city in the state, and into the Cheyenne River, a tributary of the Missouri River.

If mining is continued to be permitted in the Black Hills, significant pollutants caused by mining will continue to infiltrate the natural waterways and surrounding lands. Past mining of gold in the Black Hills spanning 130 years, much of it from the largest underground gold mine in North America – the Homestake Mine – caused long-standing damage to the Indigenous lands and waters surrounding it. One hundred million tons of mine tailings went downstream in Whitewood Creek into the Belle Fourche, Cheyenne and Missouri Rivers. Elevated levels of arsenic, mercury and other pollutants traced to mining caused Whitewood Creek to become an Environmental Protection Agency (“EPA”) Superfund Site.<sup>21</sup> While the subsequent contamination cleanup was reported as successful, research from the South Dakota School of Mines and Technology almost 20 years after the cleanup occurred found that mine tailings with high concentrations further downstream were not removed. Challenges to removal of the lingering pollutants include re-mobilization of contaminants, which risk re-contamination of waterways further downstream.

Another mining operation in the Black Hills resulting in catastrophic environmental pollution to the waterways and surrounding lands is the 360-acre Gilt Edge Mine in Lawrence County, which is located near Lead, South Dakota. Mining and mineral processing began on site in 1876. The last mine operator, Brohm Mining Company, abandoned mining the site in 1999. They also abandoned their on-going water treatment responsibilities to address acidic heavy-metal-laden water (acid rock drainage) that is constantly generated from the exposed highwalls of the three open mine pits and from the millions of cubic yards of acid-generating spent ore and waste rock.<sup>22</sup> The Gilt Edge Mine was declared an Environmental Protection Agency (EPA) Superfund site in 2000 after historic mine operations at the site contaminated surface water and groundwater with acidic water containing heavy metals. The area encompasses a former open pit and a cyanide heap-leach gold mine, as well as prior mine exploration activities from various companies. The EPA added the site to the National Priorities List (NPL) in 2000 and began operating a mine water treatment system for the site and capping contamination at Ruby Gulch Waste Rock Dump. In 2017, the EPA began work to remove mine waste from source areas and consolidate it on site in the open mine pits and the cleanup effort is ongoing.<sup>23</sup> All of this has devastating and long-standing effects on Indigenous populations who rely on the water for drinking. Elevated arsenic

concentrations in groundwater also contribute to soil pollution in agriculture and ranching areas resulting in the incorporation of arsenic into plant and animal food supplies that are then consumed.

Mining disproportionately puts Indigenous populations at risk for arsenic contamination because Indigenous communities primarily rely on well-water to drink in the Black Hills area. Native American populations are disproportionately exposed to arsenic in drinking water.<sup>24</sup> Overall, a quarter of private wells tested in tribal communities in North and South Dakota had arsenic at or higher than the amount deemed safe by the EPA. This is much higher than the national average of 7 percent of domestic well users in the U.S. with arsenic at or higher than the recommended amount. These findings are consistent with historic Indian Health Service data for the area and with urinary arsenic excretion patterns.<sup>25</sup> Elevated levels of arsenic exposure in ground water have been shown to significantly increase the risk of peripheral neuropathy, cardiovascular disease, myocardial infarction, stroke, chronic obstructive pulmonary disease (COPD), gout, lung cancer, and diabetes.<sup>26</sup>

Native American populations have long experienced significant health disparities in comparison to other populations, ranging from lower life expectancy, increased risk of cardiovascular disease, and higher rates of chronic disease factors, poor nutrition, and a lack of access to quality health care. These factors stem from systemic inequalities in economic opportunities and poor social conditions<sup>27</sup> caused by lasting and ongoing effects of colonization. As the United Nations Committee on the Elimination of Racial Discrimination has recognized, “Indigenous Peoples were victims of colonialism and continue to be victims of its consequences.”<sup>28</sup> The ongoing desecration and mining in the Black Hills is an example of this.

The return of the Black Hills to the Sioux Nations and protection from future mining is not only necessary, but critical to the future existence of Indigenous Peoples in the Black Hills and to other populations that rely on the rivers within it for their drinking water supply, agriculture and ranching.

*Protection of the Black Hills is Vital for Indigenous Peoples*

*“The protection of sacred places is vital to maintaining and preserving the distinct identities, traditions, and histories of Native peoples. Co-management practices must be an inclusive and shared responsibility. It is our sovereign right to manage and protect our resources.”<sup>29</sup>*

Cultural connection and identity are protective factors for Indigenous youth and communities. For example, according to research compiled by the National Indian Child Welfare Association, “cultural identity and ethnic pride result in greater school success, lower alcohol and drug use, and higher social functioning in Native children, adolescents, and young adults. Native children, adolescents, and young adults involved in their tribal communities and cultural activities have lower rates of depression, alcohol use, and antisocial behavior. Tribal language, ceremonies, and traditions are linked to a reduced risk of delinquent behavior for Native children, adolescents, and young adults ... Identification with a specific cultural background and a secure sense of cultural identity is linked to higher self-esteem, higher educational attainment, and lower rates of

mental health problems and substance abuse in adolescents and adults.”<sup>30</sup> Barriers to ancestral lands impede access to culture, which in turn, impede educational and later lifetime success.

Compounding this, significant discrimination against Native American students and the phenomenon of invisibility pervades our education system. Ninety-two percent of Native American students attend public schools<sup>31</sup> and experience disproportionate rates of discipline as compared to non-Native American students, with Native American students more than twice as likely to face disciplinary actions and out-of-school suspensions than their White counterparts.<sup>32</sup> The Native American community comprises only one percent of the student population in the U.S., however, they represent two percent of total school arrests and three percent of incidents reported by school staff to law enforcement.<sup>33</sup> Native American students have drop-out rates of 34% and represent the lowest graduation rate of any demographic across all schools.<sup>34</sup> A contributing factor to this phenomenon is because “Native Americans are invisible to most Americans.”<sup>35</sup>

Native Americans are also over-incarcerated as a result of discriminatory targeting by police officers, prosecutors, and unfair sentencing paradigms within court systems. This results in a disproportionate share of the prison population in states like South Dakota, where 55.3% of overall federal cases involve a Native American, demonstrating the school-to-prison pipeline is still a significant problem.<sup>36</sup> Without the ability to maintain connection with their ancestral lands, their religious ceremonies and culture, Indigenous children and communities will continue to suffer from disparate outcomes in physical and mental health and education.

## **II. Human Rights Committee’s 2014 Recommendations**

In 2014, the U.N. Human Rights Committee made recommendations on the need for protection of Indigenous sacred sites and regarding obtaining free, prior and informed consent of Tribes prior to implementing actions that adversely affect Native Americans.

The Committee is concerned about the insufficient measures taken to protect the sacred areas of indigenous peoples against desecration, contamination and destruction as a result of urbanization, extractive industries, industrial development, tourism and toxic contamination. It is also concerned about the restriction of access of indigenous peoples to sacred areas that are essential for the preservation of their religious, cultural and spiritual practices, and the insufficiency of consultation with indigenous peoples on matters of interest to their communities (art. 27).

**The State party should adopt measures to effectively protect sacred areas of indigenous peoples against desecration, contamination and destruction and ensure that consultations are held with the indigenous communities that might be adversely affected by the State party’s development projects and exploitation of natural resources with a view to obtaining their free, prior and informed consent for proposed project activities.**<sup>37</sup>



### **III. U.S. Government Response**

Even though the U.S. “announced its support for the United Nations Declaration on the Rights of Indigenous Peoples,”<sup>38</sup> it has consistently defined its interpretation of “free, prior and informed consent” as “meaningful consultation” with tribal leaders but not necessarily requiring the Tribe’s agreement for any government action impacting Indigenous communities or Tribes.

In 2021, the U.S. reported on its progress to the ICCPR. The U.S. purportedly paid considerable attention to consultation with Indigenous communities concerning infrastructure projects, and noted that the Department of the Interior (DOI), the Department of Justice (DOJ) and the Department of the Army released a report entitled “Improving Tribal Consultation and Tribal Involvement in Federal Infrastructure Decisions.” In this report, it made recommendations for federal agencies, “to act consistently with the government-to-government trust relationship and treaty rights and understand the historical context for tribal interests....” The U.S. reported responses are, in relevant part, as follows:

[E]stablish staff-level and leadership-level relationships with tribes; initiate consultation at the earliest point possible and provide sufficient information in the invitation; make good-faith efforts to obtain responses from the tribe and be cognizant of the limits of tribal resources; ensure that federal decision-makers actively participate; and seek to fully understand tribal concerns and reach a consensus where possible....<sup>39</sup>

### **IV. Inter-American Commission on Human Rights Recommendations**

The U.S. has ratified the Charter of the Organization of American States (“OAS”). As a member of the OAS, the recommendations of the Inter-American Commission on Human Rights apply to the U.S. These recommendations for Indigenous sacred sites are:

States have an obligation to protect that territory, and the relationship between indigenous or tribal peoples and their lands and natural resources, as a means to allow for the exercise of their spiritual life. Consequently, limitations on the right to indigenous property can also affect the right to the exercise of one’s own religion, spirituality or beliefs, a right recognized by Article 12 of the American Convention and Article III of the American Declaration. States are under the obligation to secure indigenous peoples’ freedom to preserve their own forms of religiousness or spirituality, including the public expression of this right and access to sacred sites whether or not on public or private property.<sup>40</sup>

Indigenous and tribal peoples are thus entitled to effective guarantee of their right to live in their ancestral territory and preserve their cultural identity. If the State fails to secure the right to territorial property of indigenous communities and their members, they are deprived ‘not only of material possession of their territory but also of the basic foundation for the development of their culture, their spiritual life,

their wholeness and their economic survival.’ Therefore, by virtue of Article 21 of the American Convention, the protection of the right to territorial property is a means to preserve the fundamental basis for the development of the culture, spiritual life, integrity and economic survival of indigenous communities. Limitations on the right to indigenous property can also affect the right to the exercise of one’s own religion, spirituality or beliefs, a right recognized by Article 12 of the American Convention and Article III of the American Declaration. States are under the obligation to secure indigenous peoples’ freedom to preserve their own forms of religiousness or spirituality, including the public expression of this right and access to sacred sites.<sup>41</sup>

## **V. Recommended Questions**

1. How will the U.S. protect the health of Indigenous Peoples in the Black Hills, South Dakota who worship there and rely on the water and natural resources for drinking and cultural uses when it only puts in place limited periods of withdrawal of drinking water supplies like the Rapid Creek Watershed over the recommendations of all impacted Tribes who want permanent withdrawal of the Black Hills from mining operations?
2. How will the U.S. protect Indigenous sacred sites and traditional ways of life, such as those found in the Black Hills of South Dakota, in compliance with Article 27 of the ICCPR treaty, when it has developed an inadequate policy in the FPISC<sup>42</sup> to "explain how it has used Tribal input in its final decisions" instead of obtaining free prior and informed consent from Tribes.
3. How will the U.S. ensure that Indigenous Peoples have the right to maintain and strengthen their spiritual relationship with the Black Hills and its natural resources as recommended by the 15 July 2020 UN Expert Mechanism on the Rights of Indigenous Peoples<sup>43</sup> for worshipping and culture when the U.S. continues to increase mining permits there?

## **VI. Suggested Recommendations**

1. The U.S. should permanently withdraw the Black Hills of South Dakota from all future mining and recognize its status as an Indigenous sacred site.
2. The U.S. should honor the 1868 Treaty of Fort Laramie which recognized the ownership of the Black Hills by the Sioux Nation Tribes.
3. The U.S. should study and report on the pollution damage to the lands and waterways caused by mineral extractions in the Black Hills.
4. The U.S. should propose mitigation strategies for pollution to the lands and waters caused by mineral extractions in the Black Hills.

5. The U.S. should study and report the impact on the health of Indigenous Peoples caused by mineral extractions in the Black Hills.

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<sup>1</sup> Cheyenne River Reservation, South Dakota, “The Lakota Nation and the Legacy of American Colonization”, Annie Coombs & Zoë Malliaros, The Architectural League, New York, <https://archleague.org/article/cheyenne-river-south-dakota-intro/>, last accessed September 7, 2023.

<sup>2</sup> Id. <https://archleague.org/article/cheyenne-river-reservation-boarding-schools/>, last accessed September 7, 2023.

<sup>3</sup> Id. citing, Richie Richards, “Asylum for Insane Indians,” Native Sun News Today, September 26, 2018.

<sup>4</sup> Id. <https://archleague.org/article/cheyenne-river-reservation-boarding-schools/>

<sup>5</sup> See, Fort Laramie Treaty Act of Apr. 29-Nov. 6, 1868, 15 Stat. 635.

<sup>6</sup> 19 Stat. 254.

<sup>7</sup> See, *United States v. Sioux Nation of Indians*, 601 F.2d 1157, 1161 (Ct. of Claims 1979).

<sup>8</sup> Right to Land under the United Nations Declaration on the Rights of Indigenous Peoples: a human rights focus, A/HRC/45/38, 15 July 2020, para. 38,

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/181/61/PDF/G2018161.pdf?OpenElement>

<sup>9</sup> Black Hills Clean Water Alliance, Mapping Claims, <https://bhcleanwateralliance.org/mapping-claims/>, last accessed September 7, 2023.

<sup>10</sup> See *United States v. Sioux Nation of Indians*, 448 U.S. 371 (1980) (“the 1877 Act effected a taking of tribal property, property which had been set aside for the exclusive occupation of the Sioux by the Fort Laramie Treaty of 1868.”).

<sup>11</sup> “The Forest Service should impose a moratorium on all mining in the Black Hills,” according to Doug Crow Ghost, Great Plains Tribal Water Alliance Chairman. <https://southdakotasearchlight.com/2023/04/26/public-tells-forest-service-to-expand-proposed-mining-ban-in-portion-of-black-hills/>

<sup>12</sup> The Great Plains Tribal Water Alliance is comprised of the Oglala Sioux Tribe, Rosebud Sioux Tribe, Standing Rock Sioux Tribe, Flandreau Santee Sioux Tribe and Lower Brule Sioux Tribe. <https://www.tribalwateralliance.org/about>

<sup>13</sup> Chase Iron Eyes, Director & Counsel, The Lakota People’s Law Project, Lakota Nation, September 8, 2023.

<sup>14</sup> Indigenous Religious Traditions, Black Hills – Stories of the Sacred. Justine Epstein, November 2012. 9 (archived article previously found at <https://sites.coloradocollege.edu/indigenoustraditions/sacred-lands/the-black-hills-the-stories-of-the-sacred/>).

<sup>15</sup> U.S. Department of Agriculture, Forest Serve, “Black Hills National Forest, Forest Plan Revision Assessment: Areas of Tribal Importance” p.p. 4-5, June 2022.

[https://www.fs.usda.gov/Internet/FSE\\_DOCUMENTS/fseprd1035056.pdf](https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd1035056.pdf), last accessed September 7, 2023.

<sup>16</sup> Id.

<sup>17</sup> Id. at p. 5.

<sup>18</sup> Id.

<sup>19</sup> Id. at p.p. 8-9, June 2022.

<sup>20</sup> <https://shakopeedakota.org/sacred-site-persquo-sla-gains-indian-land-status/#:~:text=Hill%20City%2C%20SD%20%E2%80%93%20The%20United,into%20federal%20Indian%20trust%20status.>

<sup>21</sup> South Dakota School of Mines and Technology, “SD Mines Researchers Trace Pollution from Historic Northern Hills Mine Tailings Hundreds of Miles Downstream,” July 20, 2018, last accessed September 7, 2023. <https://www.sdsmt.edu/Research/Research@Mines/SD-Mines-Researchers-Trace-Pollution-from-Historic-Northern-Hills-Mine-Tailings-Hundreds-of-Miles-Downstream/>

<sup>22</sup> Environmental Protection Agency, GILT EDGE MINE, LEAD, SD, Cleanup Activities, last accessed September 7, 2023. <https://cumulis.epa.gov/supercpad/SiteProfiles/index.cfm?fuseaction=second.cleanup&id=0801668>

<sup>23</sup> Environmental Protection Agency, Superfund Redevelopment Initiative, Superfund Sites in Reuse in South Dakota, last accessed September 7, 2023.

[https://19january2021snapshot.epa.gov/superfund-redevelopment-initiative/superfund-sites-reuse-south-dakota\\_.html#:~:text=Superfund%20Sites%20in%20Reuse%20in%20South%20Dakota%201,3%20Williams%20Pipe%20Line%20Co.%20Disposal%20Pit%20](https://19january2021snapshot.epa.gov/superfund-redevelopment-initiative/superfund-sites-reuse-south-dakota_.html#:~:text=Superfund%20Sites%20in%20Reuse%20in%20South%20Dakota%201,3%20Williams%20Pipe%20Line%20Co.%20Disposal%20Pit%20)

<sup>24</sup> Martha Powers, Joseph Yracheta, David Harvey, Marcia O’Leary, Lyle G. Best, Annabelle Black Bear, Luke MacDonald, Jolie Susan, Khaled Hasan, Elizabeth Thomas, Camille Morgan, Pablo Olmedo, Rui Chen, Ana Rule, Kellogg Schwab, Ana Navas-Acien, Christine Marie George, ISSN 0013-9351, “Arsenic in groundwater in private wells in rural North Dakota and South Dakota: Water quality assessment for an intervention trial.” <https://doi.org/10.1016/j.envres.2018.09.016>, last accessed September 7, 2023. “Implementing a Community-Led Arsenic Mitigation Intervention for Private Well Users in American Indian Communities: A Qualitative Evaluation of the Strong Heart Water Study Program” Environmental Research, Volume 168, January 2019, Pages 41-47, <https://www.mdpi.com/1660-4601/20/3/2681>, last accessed September 7, 2023.

<sup>25</sup> [Id.](#)

<sup>26</sup> Arsenic: The Underrecognized Common Disease-inducing Toxin, Walter Crinnion, NDi, Joseph Pizzorno, ND, Editor in Chief\*, Copyright © 2017 InnoVision Health Media Inc., <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6413640/#:~:text=Elevated%20levels%20of%20arsenic%20exposure.%2C%20lung%20cancer%2C%20and%20diabetes>, last accessed September 7, 2023.

<sup>27</sup> Mayer, B., Joshwesoma, L. & Schongva, G. Environmental Risk Perceptions and Community Health: Arsenic, Air Pollution, and Threats to Traditional Values of the Hopi Tribe. J Community Health 44, 896–902 (2019). <https://doi.org/10.1007/s10900-019-00627-8>, last accessed September 7, 2023.

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