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July 18, 2011

Ron Waterland, Environmental Manager
Wharf Resources
10928 Wharf Road
Lead, SD 57754

**RE: State Highway 473, a/k/a Nevada Gulch Highway;
Our File No. 2011.157010.**

Dear Ron:

This letter will address the rights of the South Dakota Department of Transportation in State Highway 473, a/k/a Nevada Gulch Highway.

The highway has been in existence and use since the early 1900's. A search of the records in the offices of the Lawrence County Register of Deeds and the Lawrence County Auditor reveals that there are no formal easements or dedications of record to the State of South Dakota for the highway. The South Dakota Department of Transportation's rights in and to the highway are therefore based on statute.

SDCL 31-3-1 provides in pertinent part:

Whenever any road shall have been used, worked, and kept in repair as a public highway continuously for twenty years, *the same shall be deemed to have been legally located or dedicated to the public, and shall be and remain a public highway until changed or vacated in some manner provided by law.*

(Emphasis added). Since State Highway 473 has been used and maintained as a public highway for substantially longer than 20 years, it is now a public highway controlled by the South Dakota Department of Transportation.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

BENNETT, MAIN & GUBBRUD, P.C.

Dictated but not reviewed to expedite delivery

Max Main

Max Main



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