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RECEIVED  
JAN 20 2011  
MINERALS & MINING PROGRAM

MAX MAIN\*  
DWIGHT A. GUBBRUD\*  
JOHN W. WALLACE  
\*LICENSED IN SOUTH DAKOTA AND WYOMING

EST. 1908

RETIRED  
DONN BENNETT

January 19, 2011

Department of Environment & Natural Resources  
Minerals & Mining Program  
Attn: Mike Cepak  
523 East Capitol  
Pierre, SD 57501-3182

Jeannine Guern  
P O Box 305  
Deadwood, SD 57732

Vernon W. Davis  
Box 291  
Beulah, WY 82712

Jeannine Guern  
11386 Ingersoll Lane  
Belle Fourche, SD 57717

Larry Miller  
309 Yellowstone Place  
Spearfish, SD 57783

**RE: Wharf's Petition to Intervene.**

Enclosed for Mike Cepak is the original of Wharf's Petition to Intervene for filing. Enclosed for the other addressees is a copy of the Petition to Intervene, constituting service by mail.

Sincerely,

BENNETT, MAIN & GUBBRUD, P.C.

Max Main

MM/njo  
Enc.  
cc: Client

**STATE OF SOUTH DAKOTA  
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES  
BOARD OF MINERALS AND ENVIRONMENT**

**RECEIVED**  
**JAN 20 2011**  
MINERALS EXAMINING PROGRAM

|   |  |
|---|--|
| <b>IN THE MATTER OF THE 2010<br/>REQUEST FOR DETERMINATION<br/>OF SPECIAL, EXCEPTIONAL,<br/>CRITICAL, OR UNIQUE LANDS<br/>AND NOTICE OF INTENT TO<br/>OPERATE FILED BY WHARF<br/>RESOURCES (USA) INC.</b> | <b>WHARF'S<br/>PETITION TO INTERVENE</b> |
|---|--|

**COMES NOW**, Wharf Resources (USA) Inc. (“Wharf”), and pursuant to ARSD ch. 74:09:01, petitions to intervene in the four petitions to nominate and list the Terry Cemetery for inclusion on the preliminary list of special, exceptional, critical, or unique lands submitted by Jeannine Guern, Vernon W. Davis, Larry Miller and the Department of Environment and Natural Resources (“DENR”). Wharf states and alleges as follows:

1. Pursuant to ARSD ch. 74:29:10, Wharf previously submitted a Notice of Intent to Operate and Request for Determination of Special, Exceptional, Critical, or Unique Lands (“Notice and Request”) to DENR. DENR conducted an on-site inspection of the proposed lands to be affected, examined the previously established preliminary list of special, exceptional, critical, or unique lands, consulted with other agencies, evaluated the information provided by Wharf in the Notice and Request, and determined that only the Terry Cemetery should be added to the preliminary list of special, exceptional, critical, or unique lands, and petitioned for the same. The three other nominating petitions in this matter also cover only the Terry Cemetery.
2. Wharf does not oppose the nomination of the Terry Cemetery for inclusion on the preliminary list of special, exceptional, critical, or unique lands.
3. In 2008, Wharf caused the Terry Cemetery to be platted, with the plat

being recorded December 30, 2008 as Document No. 2008-7006. This plat information should be used to describe the area of the Terry Cemetery.

4. The hearing in this matter will be held pursuant to ARSD §74:29:10:13.
5. The applicable statutes and rules are SDCL ch. 45-6B and ARSD ch. 74:29:10.

DATED this 19<sup>th</sup> day of January, 2011.

BENNETT, MAIN & GUBBRUD, P.C.  
Attorneys for Wharf

By: Max Main

MAX MAIN  
618 State Street  
Belle Fourche, SD 57717  
605.892.2011

### CERTIFICATE OF SERVICE

I, MAX MAIN, one of the attorneys for Wharf Resources (USA) Inc., do hereby certify that on the 19<sup>th</sup> day of January, 2011, I caused the original of WHARF'S PETITION TO INTERVENE to be filed with:

Department of Environment & Natural Resources  
Minerals & Mining Program  
Attn: Mike Cepak  
523 East Capitol  
Pierre, SD 57501-3182

and a full, true and complete copy of said document to be served upon the following named persons at their last known mailing addresses, as follows:

Jeannine Guern  
P O Box 305  
Deadwood, SD 57732

Vernon W. Davis  
Box 291  
Beulah, WY 82712

and on her at  
Jeannine Guern  
11386 Ingersoll Lane  
Belle Fourche, SD 57717

Larry Miller  
309 Yellowstone Place  
Spearfish, SD 57783

by depositing the same in the United States Mail in Belle Fourche, South Dakota with first class postage thereon fully prepaid, in envelopes addressed as above.

  
\_\_\_\_\_  
Max Main