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DEPT. OF ENVIRONMENT AND
NATURAL RESOURCES,
SECRETARY'S OFFICE

September 20, 2010

South Dakota Department of Environment and Natural Resources
ATTN: Steven M. Pirner, P.E. Secretary
Division of Environmental Services
Surface Water Quality Program
Joe Foss Building,
Pierre, SD 57501-3181

RE: Black Hills Flyfishers comments on the Draft Certification of the Section 401 Water Quality Certification for Federal Energy Regulatory Commission Permit, City of Spearfish.

Dear Secretary Pirner;

In accordance with South Dakota Department of Environment and Natural Resources (DENR) August 24, 2010 Notice of Request for the Section 401 Water Quality Certification for Federal Energy Regulatory Commission Permit- City of Spearfish; the Black Hills Flyfishers hereby files it's comments regarding the South Dakota Department of Environment and Natural Resources' (DENR) proposal to grant a Section 401 Water Quality Certification for the Federal Energy Regulatory Commission (FERC) Permit for the City of Spearfish.. The Black Hills Flyfishers would like the following comments considered in the 401 Water Quality Certification process and would like this letter to be read into the record if a public hearing is conducted for this certification.

The Black Hills Flyfishers is a 501 © (3) nonprofit corporation organized in 1980 with a long history of involvement in conservation and education projects with the goal of improving fishing in the Black Hills of South Dakota for all types of fishermen.

The Black Hills Flyfishers applauds the cooperation between the DENR and the US Forest Service to agree on a set of compromise flow standards for water to be released over the Maurice Dam. We feel that the currently proposed Certification addresses many of the issues we identified in previous draft certification documents.

However, the Black Hills Flyfishers feel that there is one issue that is related to the City of Spearfish FERC application that is not addressed in the proposed Certification letter conditions. The issue of water quality measurement and monoriting of the stretch of Spearfish Creek downstream from the Spearfish Power plant is unresolved. In the DENR background report signed by Erick Gronlund that is found on the DENR website regarding the Spearfish FERC applications, Mr. Gronlund documents on pages 4, 5 and 6 that the DENR has documented several instances of fish mortality in that stretch of Spearfish Creek from 1987 through 2005. That stretch of Spearfish Creek is also designated as a Coldwater permanent fish life propagation (SDAR 74:51:01:45) and it seems clear that the appropriate water quality standards (SDAR 74:51:03:02) could not have been observed at the time fish kills were reported.

The BHFF does not agree with DENR's logic that a measured flow at the Spearfish gauge of 40 cfs will protect the downstream fishery and recreation uses. There does not appear to be any scientific evidence to support DENR's position that merely maintaining 40 cfs at the Hydro plant, without any other management of the irrigation withdrawals, will protect and maintain the downstream fishery. DENR is statutorily required to maintain the water quality standards for all of Spearfish Creek. DENR should establish more extensive water quality

monitoring in areas fish kills have been reported to determine their causes. In addition, DENR should closely manage irrigation releases to maintain the statutorily required water quality standards. The BHFF strongly suggests that the necessary water quality monitoring be incorporated into the conditions for the proposed 401 certification.

The BHFF also request that the DENR utilize the scientific evidence from the Delphi Team showing that the Johnson Ranch stretch of Spearfish Creek was stable at a flow rate of 17.5 cfs but noticeably degraded at 7.9 cfs (Tables 3 and 8 in "Analysis of Spearfish Creek Instream Flows using the Delphi Team Study Approach Spearfish Hydroelectric Project FERC No. 12775", September 2008).

The BHFF also request that the DENR utilize the scientific information that was presented in the South Dakota Department of Game Fish and Parks Report No. 80-5 ("Evaluation of Instream Flow Methodologies and Determination of Water Quantity Needs for Nine Streams in the State of South Dakota 1978-79" by Ronald D. Glover, 1980) which shows that the recommended minimum water flows for Spearfish creek just above the Redwater river, should be between 9.6cfs to 15 cfs. Both the Delphi Team report and the SD GFF&P Report 80-5 are included in the City of Spearfish's FERC application, which was made available to the DENR. Understanding these flow parameters provides for the establishment of flow regimes appropriate to maintaining the Cold Water Fishery designation.

The Black Hills Flyfishers would request that the DENR come up with a plan for the stretch of Spearfish Creek downstream of the City of Spearfish. BHFF feels the following items are essential elements in effectively managing this stretch of Spearfish Creek:

1. Measure the flow rate and develop objective data to show the correlation between different flow rates and the most critical elements of water quality such as temperature and dissolved oxygen content.
2. Monitor these critical measurements over an appropriate period of time.
3. Manage the distribution of water from this stretch of Spearfish Creek to maintain the established water quality standards.

Please let us know if a public hearing on the South Dakota Department of Environment and Natural Resources' (DENR) proposal to grant a Section 401 Water Quality Certification for the Federal Energy Regulatory Commission (FERC) Permit for the City of Spearfish as publicly noticed in your August 24, 2010 "Notice of Request", is requested and scheduled.

Respectfully,

Hans Stephenson
Vice President
Black Hills Flyfishers
PO Box 1621
Rapid City, South Dakota 57709