

1 (2) the transfer of the Plant from the
2 Homestake Mining Company to the city of Spear-
3 fish, South Dakota—

4 (A) would maintain the historic benefits of
5 the Plant; and

6 (B) would not—

7 (i) affect the validity of the right-of-
8 way grant; or

9 (ii) subject the Plant to the jurisdic-
10 tion of the Commission; and

11 (3) it is in the public interest for the Plant to
12 continue to operate in a manner that protects and
13 improves—

14 (A) fish hatchery operations;

15 (B) recreation;

16 (C) historical interpretation;

17 (D) irrigation;

18 (E) hydroelectric power generation; and

19 (F) the aesthetic value of Spearfish City

20 Park.

21 **SEC. 2. DEFINITIONS.**

22 In this Act:

23 (1) COMMISSION.—The term “Commission”
24 means the Federal Energy Regulatory Commission.

1 (2) PLANT.—The term “Plant” means the
2 Spearfish Hydroelectric Plant Number 1 that—

3 (A) is located in Lawrence County, South
4 Dakota;

5 (B) operates in accordance with a valid
6 right-of-way grant—

7 (i) issued by the General Land Office
8 of the Department of the Interior in 1909;
9 and

10 (ii) administered by the Forest Serv-
11 ice as of the date of enactment of this Act;
12 and

13 (C) is described in Commission docket
14 number UL00–3.

15 (3) SECRETARY.—The term “Secretary” means
16 the Secretary of the Interior.

17 **SEC. 3. EXEMPTION OF THE PLANT FROM COMMISSION JU-**
18 **RISDICTION.**

19 Part I of the Federal Power Act (16 U.S.C. 791a
20 et seq.) shall not apply to the Plant until and unless other-
21 wise provided by Congress.

22 **SEC. 4. STUDY OF SPEARFISH CREEK HYDROLOGY.**

23 (a) IN GENERAL.—The Secretary, acting through the
24 United States Geological Survey, shall carry out a study
25 of the hydrology of Spearfish Creek, South Dakota.

1 (b) AUTHORIZATION OF APPROPRIATIONS.—There is
2 authorized to be appropriated to the Secretary to carry
3 out the study under subsection (a) \$250,000 for each of
4 fiscal years 2006 through 2009.

5 **SEC. 5. SENSE OF CONGRESS.**

6 It is the sense of Congress that the city of Spearfish,
7 South Dakota, to provide for the restoration and improve-
8 ment of Spearfish Creek, should—

9 (1) uphold the Memorandum Agreement of the
10 city of Spearfish and the Spearfish Canyon Land-
11 owners Association, dated September 14, 2004; and

12 (2) take action to release additional water flow
13 of approximately 5 to 10 cubic feet per second be-
14 tween the Maurice Intake Dam and the Spearfish
15 Diversion.

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