SECTION C

COUNTY BUILDING PERMIT HANDBOOK
(Including Approved County Ordinances)

and

COUNTY COMMISSION MEETING MINUTES

LAWRENCE COUNTY

WHITEWOOD CREEK TAILINGS AREA

BUILDING PERMIT HANDBOOK

A GUIDE TO BUILDING IN THE WHITEWOOD CREEK TAILINGS AREA

January 10, 1994

OVERVIEW

You have been given this material because you have expressed a desire to build a house in or near an area that has been identified as the Whitewood Creek Tailings Area (hereafter referred to as Area). The Area has additional building permit requirements controlled through county ordinances. The Area was created by the county to meet Environmental Protection Agency (EPA) requirements under the superfund program. The Area was designated a superfund site by EPA and studied extensively for over ten years. These studies provided the basis for EPA building permit requirements in the Area for the protection of public health. The Area is administered by the county.

This handbook has been developed to explain how you can proceed to build and occupy a house in the Area. A two page Residential Information Sheet follows this overview. This Residential Information Sheet provides a summary of why this Area was designated as a Superfund Site and what that means to you as a landowner, developer of a new homesite, and future resident. Please read the following two page summary before proceeding.

MEADE COUNTY

WHITEWOOD CREEK TAILINGS AREA

BUILDING PERMIT HANDBOOK

A GUIDE TO BUILDING IN THE WHITEWOOD CREEK TAILINGS AREA

January 10, 1994

OVERVIEW

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BUTTE COUNTY

WHITEWOOD CREEK TAILINGS AREA

BUILDING PERMIT HANDBOOK

A GUIDE TO BUILDING IN THE WHITEWOOD CREEK TAILINGS AREA

January 10, 1994

OVERVIEW

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Whitewood Creek Superfund Site
Residential Information Sheet

OVERVIEW

This information sheet provides information on the Whitewood Creek Superfund Site, located in Lawrence, Meade and Butte Counties in western South Dakota. The site is along 18 miles of Whitewood Creek from the Crook City bridge to the confluence with the Belle Fourche River. The information sheet is to remind site residents about the EPA Site Remedy, and precautions which may be taken by a site resident.

SITE BACKGROUND

The Black Hills gold rush of the late 1870's brought a host of mining companies to the area. Gold ore was milled and tailings were discharged into Whitewood Creek. As Whitewood Creek flowed out of the Black Hills and onto the surrounding plains, the tailings settled and filled the old stream bed and flood plain. These areas in the flood plain are known as TAILINGS DEPOSITS. The tailings that settled in the flood plain were generally deposited from 1880 to 1930. The wind blew some of these tailings onto natural soils adjacent to the flood plain. These adjacent areas are referred to as TAILINGS IMPACTED SOILS.

SUMMARY OF SITE RISKS

EPA determined that the contaminant of concern at the Whitewood Creek Superfund Site is arsenic. TAILINGS DEPOSITS and TAILINGS IMPACTED SOILS at the site contain elevated levels of arsenic in the naturally occurring form of arsenopyrite (fools gold). Arsenopyrite is present in the local geology where gold occurs.

Shallow ground water in the creek flood plain, directly below the TAILINGS DEPOSITS, may exceed drinking water standards for arsenic. There are no wells for domestic use in this shallow aquifer and State regulations prohibit shallow well construction in the Whitewood Creek flood plain.

EPA determined that the way which people may be affected by arsenic at the site is through incidental ingestion of small amounts of TAILINGS DEPOSITS or TAILINGS IMPACTED SOILS over a lifetime. Ingestion of low levels of arsenic, on a daily basis, over a lifetime may have an effect on the skin. A pattern of skin abnormalities, including the appearance of dark and light spots on the skin, and small corns on the palms of the hands, the soles of the feet and the torso may possibly develop. These skin conditions are not considered to be a health concern, but some corns may have potential to develop into skin cancer.

EPA's remedy minimizes risk from arsenic to individuals. Site residents can further minimize risk by practicing th additional precautions outlined in this information shee

SITE REMEDY

EPA chose a twofold remedy: (1) existing residentia yards containing TAILINGS DEPOSITS or TAILINGS IMPACTED SOILS were cleaned up in 1991 and 1992 b removing these materials or covering them with clear soil, and (2) county ordinances would be used t minimize exposure to TAILINGS DEPOSITS an TAILINGS IMPACTED SOILS in future development. I addition to the County ordinances, an existing State rul prohibiting shallow well construction in the Whitewoo Creek flood plain will be continued.

ONGOING ACTIVITIES

Remediated residential areas will be sampled every fiv years to verify that these areas remained clear Remediated areas will be resampled if flood waters cov cleaned up residential yards within the site.

COUNTY ORDINANCES

The county ordinances include the following components:

- Residential and commercial development on TAILINGS DEPOSITS is prohibited.
- Residential development is allowed in TAILINGS IMPACTED SOIL AREAS that the owner has remediated and in areas that have soil arsenic levels below 100 parts per million.
- Excavation and use of tailings material outside of the TAILINGS DEPOSITS will be prohibited. (Mining of the tailings is allowed subject to the regulations of the State of South Dakota.)
- Importation of TAILINGS DEPOSITS or TAILINGS IMPACTED SOILS to residential yards is prohibited. These materials cannot be used for driveways or fill in yards or gardens.

Please refer to property maps that have been provided to site residents showing areas affected by the county ordinances. These maps identify tailings deposits, tailings impacted soils, remediated areas, and clean areas. These maps are also available at county offices.

PERSONAL PRECAUTIONS

Personal precautions that may be practiced by site residents to reduce arsenic exposure include:

1. Minimize time spent in TAILINGS DEPOSITS and TAILINGS IMPACTED SOILS. Small children should not play in TAILINGS DEPOSITS due to potential for ingestion of these materials.
2. Practice good personal hygiene. When site residents are exposed to TAILINGS DEPOSITS, TAILINGS IMPACTED SOILS, exposed areas (hands and face) and clothing should be washed.
3. Avoid fruit and vegetable gardening in TAILINGS DEPOSITS and TAILINGS IMPACTED SOILS. The best areas for gardening are those sampled and known to have low arsenic concentrations.
4. Practice caution when using manure in gardens. Manure collected from areas of TAILINGS DEPOSITS or TAILINGS IMPACTED SOILS, may have arsenic impacted soils incorporated with the manure.

SITE RESIDENT'S ROLE

Residents have an important role in implementing the remedy and minimizing risk. Site residents are asked to do the following:

1. Notify Homestake if flood waters reach residential yards within the site.
2. Notify potential property owners of the Whitewood Creek Superfund Site and inform them of this information sheet. Warning signs and deed restrictions were not included in the remedy in response to public comment. The assistance of site residents is necessary to educate potential property owners.
3. Practice the personal precautions outlined in this information sheet.

SITE DOCUMENTS

Whitewood Creek Superfund documents, including the Record of Decision and Consent Decree, are available for publ review at the Lawrence County Register of Deeds Office, 90 Sherman Street, Deadwood SD 57732 (605) 578-3930.

SITE CONTACTS

Homestake Mining Company
Phil Barnes
Environmental Department
215 W. Main - P.O. Box 875
Lead, SD 57754
(605) 584-4780

EPA
Michael McCeney
U.S. EPA Region VIII
999 18th Street, Suite 500
Denver, CO 80202
1-800-227-8917 Ext. 7169

SD Department of Environme
& Natural Resource
Mark Lawrense
523 Eas pi
Pierre, SD 575
(605) 773-32

and Lawrence and Meade County Planning Offices and Butte County Civil Defense Office

HANDBOOK PURPOSE

The purpose of this handbook is to provide county staff and landowners in the Whitewood Creek Tailings Area with guidance on how to proceed with residential construction. This Handbook assists in understanding how the county ordinances are applied, and the processes necessary to obtain building permits for residential construction. This Handbook also details those activities prohibited or restricted by land use ordinances applicable to the Area.

INTRODUCTION AND BACKGROUND

The site has been studied for a period of over ten years. From these studies, EPA has determined that given conservative assumptions, some level of risk is present at the Area for a lifelong resident (please see the Residential Information Sheet). EPA has also determined that implementing certain building requirements reduces or minimizes these EPA identified risks to an acceptable level. The building requirements desired by EPA are adopted and administered by the county through county ordinances. The county ordinances apply only to the area described in the maps accompanying this handbook. The county ordinances minimize risk to landowners at the site from arsenic in soils. The ordinances prohibit residential construction in some areas, and allow residential construction with certain requirements in other areas. Agricultural uses are allowed without restriction.

The Area is along Whitewood Creek from the Crook City Bridge to the confluence of Whitewood Creek and the Belle Fourche River. The Area location is shown on the map included as Figure 1. Detailed maps have been provided to each landowner who has land within the Area and to the County Planning Office. These maps will assist you in the building permit process.

Based on numerous studies, EPA determined that 100 parts per million arsenic in soil, or less, is the acceptable level for residences. Building a residence on soils with less than 100 parts per million arsenic reduces the risk to the lifetime resident to an acceptable level.

To define the area, transects or sampling lines were established perpendicular to the Creek at intervals of approximately 500 feet. Soil samples were collected and analyzed along these sampling lines until analytical values confirmed arsenic concentrations of 100 parts per million arsenic or less, thus defining the Area boundary. The soils were categorized into two types - Tailings Deposits and Tailings Impacted Soils. The Tailings Deposits were created by water deposition of tailings within the flood plain. The tailings materials deposited within the flood plain were subsequently, over the years, windblown onto surrounding soils creating the Tailings Impacted Soils.

BUILDING PROHIBITED IN TAILINGS DEPOSITS

Commercial (non-agricultural) and residential construction on the tailings deposits themselves are prohibited by county ordinance. Tailings deposits are identified and shown on the maps. The tailings deposits are largely in the flood plain.

FIGURE 1

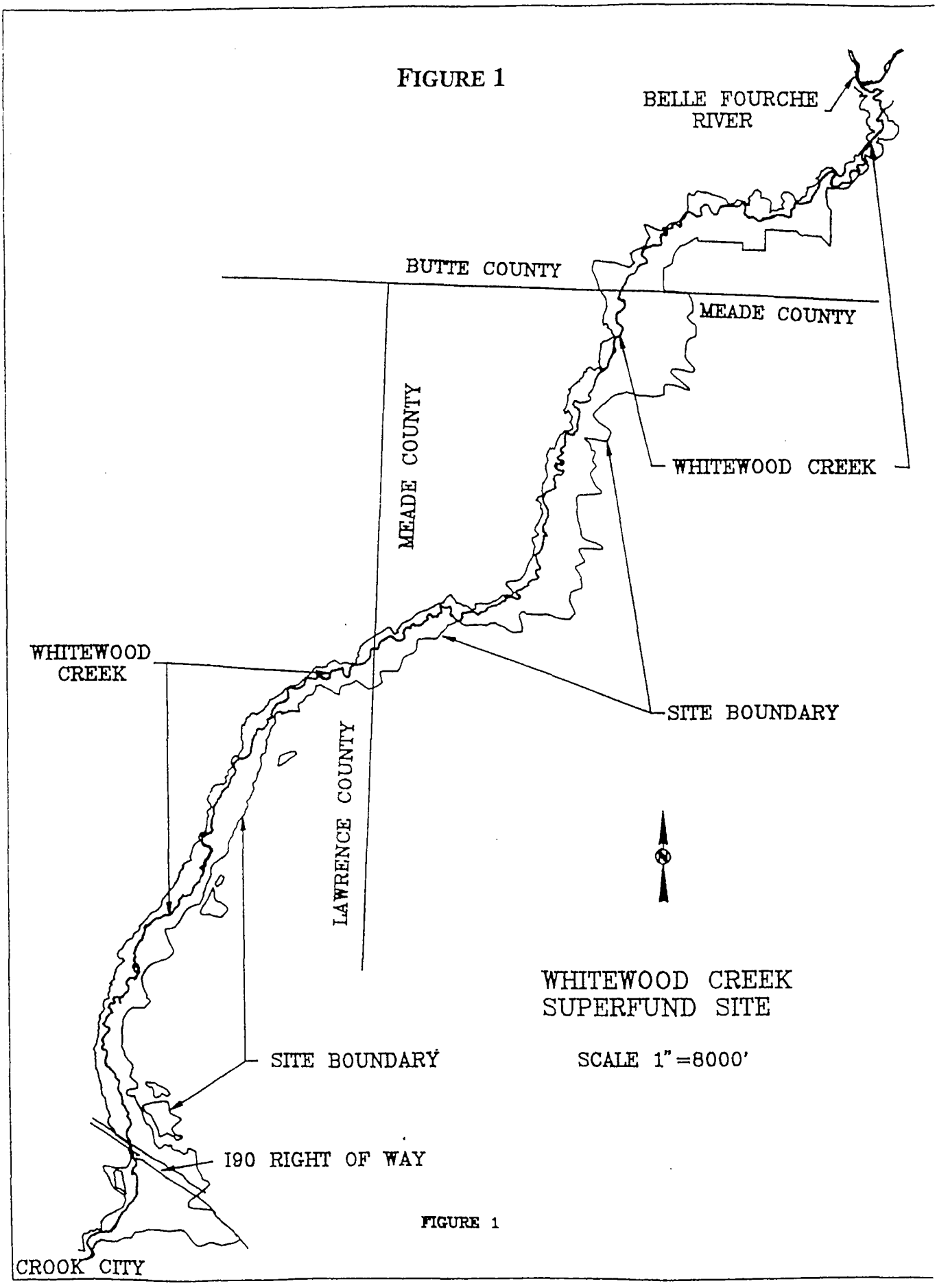


FIGURE 1

BUILDING RESTRICTED ON TAILINGS IMPACTED SOILS

Residential construction is restricted on soils with arsenic levels of greater than 100 ppm. The Tailings Impacted Soils are shown on the Area maps. Residential building within the Tailings Impacted Soils is allowed on locations that have arsenic levels of 100 ppm or less. Areas with arsenic levels greater than 100 part per million may be lowered by activities such as those described in the section of this Handbook entitled Activities Reducing Soil Arsenic Levels. If the building site selected has soil arsenic levels 100 parts per million or less, the developer must demonstrate this fact by soil sampling. The sampling requirements are described in Appendices A & C of this Handbook. If the arsenic levels of the building site selected cannot be easily reduced through agricultural tillage, a soil covering process may be used to reduce the soil arsenic levels. The covering process is described in Appendix B. The developer is responsible for implementing activities that reduce soil arsenic levels to the acceptable level of 100 ppm or less, and demonstrating these levels through soil sampling. Developers must also resample new homesites every five years to verify that soil arsenic levels remain at 100 ppm or less. Details of this verification sampling are outlined in Appendix D.

Because soils within the district contain elevated levels of arsenic, landowners and construction workers should exercise extra precautions when working. Recommended precautions include practicing good personal hygiene and controlling dust.

OTHER ORDINANCE RESTRICTIONS

Removal or use of tailings is prohibited. This prohibition eliminates the potential contamination of other areas by removal and relocation of tailings materials.

The construction of shallow wells within the tailings deposits is prohibited by state law ARSD 74:02:04:26 which is outlined in Appendix G.

All land use activities other than those specifically prohibited or restricted by county ordinances and state laws referenced above, are allowed as regulated by applicable Federal, State or local laws and regulations.

ACTIVITIES REDUCING SOIL ARSENIC LEVELS

The extensive sampling program conducted to define the areas containing soils with arsenic greater than 100 parts per million has provided a great deal of information about arsenic distribution within Area soils. The sampling program showed that the windblown tailings are not distributed evenly throughout the site. There are areas within the site which have soils with arsenic concentrations less than the 100 parts per million EPA criteria. The sampling efforts have identified areas or islands of arsenic concentrations both higher and lower than the surrounding areas.

When the sampling lines crossed a tilled or worked field, the arsenic concentrations often dropped below 100 parts per million. One reason for this is that agricultural tilling had mixed wind blown tailings with native soils to the point that surface arsenic concentrations were 100 parts per million or less. The tillage of the soil provided a reduction in the surface soil arsenic concentrations to levels which allow residential building.

Future agricultural tillage will lower the arsenic concentrations in soils that have not been tilled previously. In some cases this tillage will reduce the arsenic concentration to below 100 parts per million. A preconstruction soil sampling effort will provide the landowner with arsenic concentrations on the specific building site chosen for construction. Preconstruction sampling is detailed in Appendix A.

Material from basements or other deep excavations in the tailings impacted soils will contain 100 ppm or less of arsenic and can be used as cover soil to lower the soil arsenic levels of the surrounding building site.

HOW TO OBTAIN A BUILDING PERMIT AND OCCUPANCY PERMIT

When landowners go to the county offices to obtain a building permit, the county will review their proposed building site, compare it to the Area maps, and advise them if their building site is within the Whitewood Creek Tailings Area.

If their building site is outside of the Area, then the requirements in this handbook do not apply, and a landowner can obtain a building permit through the normal building permit procedures.

If the building site is within the Area, the County will determine if it is in the Tailings Deposits or the Tailings Impacted Areas. Construction is prohibited in the Tailings Deposit Area. An alternate building site must be located.

If the building site is in the Tailings Impacted Area, the landowner must first sample the soil within the site for arsenic. This is called preconstruction sampling. This sampling is described in Appendix "A".

Upon receipt of these sample results, the county will issue a building permit. This building permit will have special requirements which must be met before an occupancy permit can be issued.

In order to obtain an occupancy permit, landowners will need to do one of the following:

> Resample the building site after the house is constructed. This is called postconstruction sampling. These sample results must be submitted to the county and they must show that the soils contain arsenic levels of 100 ppm or less. This sampling is described in Appendix "C" of this document. Landowners must conduct this sampling even if the preconstruction sampling showed that arsenic in the soils were 100 ppm or less.
>
> or
>
> Submit results of a cover material sampling program. This program is the sampling of the clean soils used to cover contaminated areas at the building site. These sample results must show that cover soils contained 100 ppm or less arsenic. Landowners must conduct this sampling on cover soils before they are brought to the building site. This sampling is described in Appendix "B" of this document.

APPENDICES

A. HIGH USE AREA DEFINITION and PRECONSTRUCTION SAMPLING

B. SITE SOIL COVERING ACTIVITIES

C. POSTCONSTRUCTION SAMPLING

D. OPERATIONS AND MAINTENANCE (O&M) SAMPLING ACTIVITIES

E. HOMESITE DEVELOPMENT FLOWCHART

F. COUNTY ORDINANCES AS ADOPTED

G. STATE LAW PROHIBITING SHALLOW WELLS

APPENDIX A

HIGH USE AREA DEFINITION and PRECONSTRUCTION SAMPLING

1.0 INTRODUCTION AND HIGH USE AREA DEFINITION

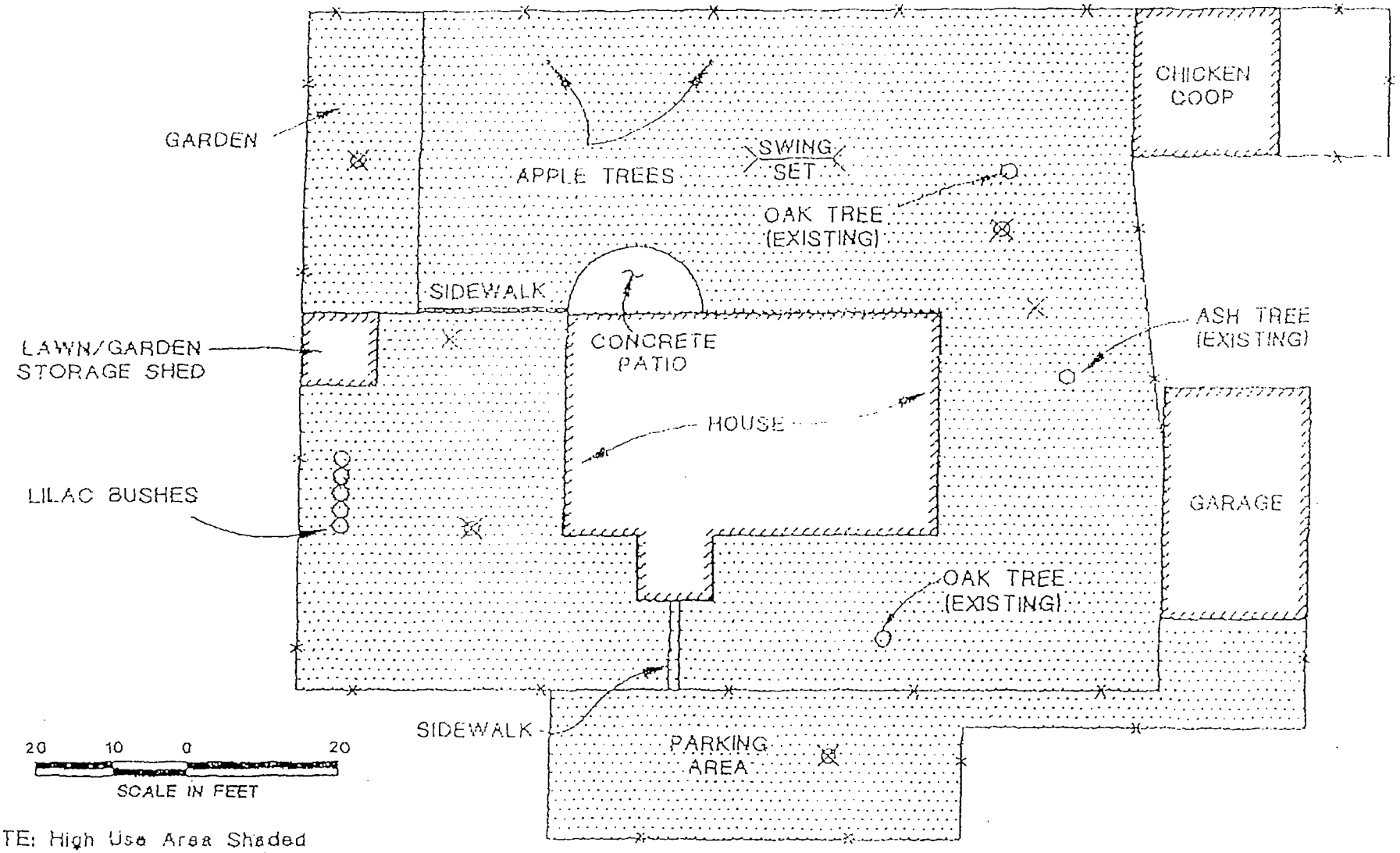
Prior to building a home in the Whitewood Creek Tailings Area, soil samples must be collected and analyzed by a laboratory to investigate arsenic concentrations in the proposed building site soils. These preconstruction soil samples must be collected from what is anticipated to be property "High Use Areas". High use areas are generally described as areas on the property which will likely be used on a day-to-day basis; that is, areas which will be contacted routinely by property occupants through normal residential activities. Areas typically defined as high use would include (but not be limited) to the following:

- areas immediately surrounding the property dwelling(s) (fenced or mowed yards);
- play areas, such as areas in the immediate vicinity of and surrounding sand boxes, swing sets, etc.;
- areas containing permanent picnic facilities (picnic tables, barbecue grills, etc.);
- areas including gardens;
- driveway/parking areas; and
- areas used for foot travel between the property residence and any "detached" residential garage.

It may be quite useful for the property owner to construct a map or sketch of the property prior to construction. This map would show the location of the proposed property structures and high use areas, separating yard areas from garden areas. The use of such a map would ensure that preconstruction samples are collected from proposed areas of high use and not from areas to be covered by any proposed structures or areas outside of what will be considered high use areas. Also, this type of map would be useful for postconstruction sampling as well as potential soil covering activities, since a garden sample (if a garden is proposed) must be collected during postconstruction sampling and soil covering requirements differ from yards to gardens. A hypothetical home-site map (Figure A.1) is included as an example of what such a map might contain and how it could be used for sampling activities.

2.0 SAMPLE NUMBER AND LOCATION

Two preconstruction samples must be collected for a proposed residential site. The sample locations should be regularly spaced across the property within the proposed high use area. In other words, the samples should be located such that each sample represents approximately one-half of the proposed high use area and not biased towards any one side or area of the high use area.



PROJECT NO.	PREPARED BY:	FIGURE A.1
01944.3		EXAMPLE (HYPOTHETICAL) HOME-SITE HIGH-USE AREA MAP
DATE 6/92		
REVISION 0	STEFFEN ROBERTSON & KIRSTEN (U.S.) Consulting Engineers & Scientists	

3.0 SAMPLE COLLECTION AND LABELING

Sample Depths. Preconstruction samples must be collected from a depth of 0 to 1 inch, below the vegetative layer (grass).

Excavation and Collection. The samples must be separate samples of soil collected from each location. One sample should be collected at a time using the following procedures: Surface vegetation (grass) should be removed prior to collecting the soil sample. The sample should be collected by breaking up the top one inch of soil in a circular area approximately 6 inches in diameter with a clean bar or shovel, if necessary. An approximate 8-ounce volume (i.e., cup) of soil should be collected using a clean (washed) hand spade or shovel and be placed in a ziplock bag.

Sample Number and Tag. A sample number must be assigned to each sample collected since a sample number is necessary for laboratory reporting procedures. It may be useful to include a designation letter in the sample number to indicate which area of the property the sample represents. For example, the sample number might be "E-1" indicating the first sample collected and that the sample represents the east half of the property.

The sample number should be written on the outside of the ziplock bag with a permanent marker. Two sample tags should be filled out for each sample using a permanent marker. Sample tags should be made from heavy paper such as construction paper, note cards, or light cardboard. The sample tags should have the following information:

- sample number;
- signature of sample collector;
- date and time of sample collection;
- property owner; and
- analysis instructions for the analytical laboratory (i.e., "analysis for total arsenic, reported in dry weight, using EPA Methods 3050 and 7060").

Both the sample in the ziplock bag and one sample tag should be placed inside a second ziplock bag. The second sample tag should be stapled across the top of the outer bag. Samples should be placed in an ice chest or heavy cardboard box and kept at normal temperatures for transport to the laboratory.

Equipment decontamination (cleaning). All sampling equipment (bars, shovels, trowels, plastic cups, etc.) should be decontaminated (washed) before each sample is collected. Sampling equipment should be rinsed thoroughly with distilled water and wiped dry with a clean paper towel (paper towels should not be used more than one time).

4.0 LABORATORY ANALYSIS

The preconstruction soil samples collected as directed above must be analyzed by a qualified analytical laboratory for total arsenic reported in dry weight using EPA Methods 3050 and 7060. (Qualified laboratories will be familiar with these analytical method numbers.) The laboratory completing the soil analysis should report arsenic concentrations in milligrams per kilogram *(mg/kg) dry weight which is equivalent to parts per million (ppm).*

A listing of local laboratories can be obtained in the area phone book yellow pages under the heading "Laboratories/Testing". The specific laboratory chosen should be contacted prior to sample delivery to assure their ability to complete the required analysis.

5.0 ANALYTICAL RESULTS AND LANDOWNER CHOICES

To obtain a building permit, preconstruction sample analytical results must be submitted to the county. Therefore, following the analyses of the preconstruction samples, the property owner should evaluate the analytical results. If arsenic concentrations in both samples are "clean" (that is, 100 ppm or less), the county will issue a building permit. This permit will require postconstruction sampling in order to obtain an occupancy permit. That is, resampling must be conducted after the house is built, even if the preconstruction samples were "clean".

If at least one of the preconstruction samples is greater than 100 ppm arsenic, the landowner has two choices:

1. Choose another building site. Alternate sites should be chosen from either areas demonstrated by tailings area maps to contain arsenic levels 100 ppm or less, or areas recently tilled through routine agricultural activities.

or

2. Remediate (clean-up) the building site. In this case the county will issue a building permit with provisions requiring a soil covering program. Requirements for the soil covering program are outlined in Appendix "B" of this document.

APPENDIX B

SITE SOIL COVERING ACTIVITIES

1.0 INTRODUCTION AND PURPOSE

This section outlines the soil covering requirements for arsenic contaminated building sites within the Area. Soil covering activities are necessary if preconstruction or postconstruction soil sampling detects arsenic contaminated soils, (that is, soils with arsenic greater than 100 ppm). EPA requires that contaminated soils be covered with clean soils. The clean cover must be applied to the following depths: 12" in yards, 6" in driveways/parking areas, 24" in gardens.

2.0 ESTABLISHING REMEDIATION

Prior to remediation of a building site, the entire high use area must be surveyed by a South Dakota licensed surveyor to establish grade and the boundaries of the area to be remediated. Stakes must be set to allow for the correct thickness and limits of the soil cover to be established. Boundary/grade stakes should be set at all high use area corners with boundary grade stakes set between corners such that there will be no greater than 50 feet between boundary/grade stakes. Grades stakes within the high use area should be regularly spaced every 50 feet such that each stake roughly represents 2500 square feet. If the high use area is especially small such that the above specified survey staking is impractical, grade and boundary stakes should be set adequate to ensure the correct placement of cover material.

3.0 COVER MATERIAL SAMPLING

Before cover material is brought into the high use area, it must be sampled to demonstrate that the soil arsenic levels are 100 ppm or less. Building sites that have been covered by sampled cover material do not need postconstruction sampling. This section outlines the cover material sampling requirements.

Samples must be collected at a density of one composite sample per 1/2 acre. A composite sample is four separate samples combined into one. The composite must be made by dividing the 1/2 acre into four equal sections. One sample must be taken from the center of each section. Each of these samples must be combined in a bucket into one sample.

Samples must be collected with a clean auger post hole digger. After every sample segment the post hole digger should be thoroughly cleaned. Samples should be removed throughout the depth from which cover material will be taken. Soil should be taken equally throughout the hole (ie. the same amount of soil at 1" as taken at 12"). Furthermore, the four sample segments should be of approximately equal volume. The samples from all four sections must be combined in a clean, covered, decontaminated bucket. The bucket should be labeled with sample number, signature of sample collector, date and time of sample collection, property owner and analysis instruction. This sample composite must then be taken to a qualified analytical laboratory for

testing as per Section 4.0 Appendix "A". The laboratory should be instructed to thoroughly mix the sample before testing. If additional borrow material is needed, a sample from a second 1/2 acre area can be taken.

If samples are 100 ppm or less arsenic, the soils are acceptable for covering materials. If they are greater than 100 ppm arsenic, another borrow site must be chosen.

4.0 COVER MATERIAL PLACEMENT

Soil cover material must be placed in the areas and to depths specified by survey stakes. A licensed surveyor must verify that the soils used for cover material were from the area previously sampled.

5.0 DISPOSAL OF CONTAMINATED SOIL

During site preparation, some tailings impacted soils may need to be excavated. These soils must be properly disposed of within the Tailings Area. One option is to use the approved Homestake Mining Company Disposal Area at the north end of the Tailings Area. In no case can tailings impacted soils be taken into areas that have not been previously impacted. The Environmental Director of Homestake Mining Company should be contacted if use of the disposal area becomes necessary.

6.0 DOCUMENTATION OF COVER MATERIAL

Following placement of cover material, the high use area of the building site must again be surveyed by a licensed surveyor. The surveyor must also produce a map of the survey. This survey map will document that cover material has been placed across the high use area to the depths required. The level of detail of this survey should be consistent with the survey completed prior to soil covering activities; that is, the number of survey control points should be at least equal to the number of boundary/grade and grade stakes set prior to soil covering.

The map produced from this survey should be at a scale of 1 inch = 20 ft. The map must include a statement by a South Dakota licensed surveyor certifying that a) the map is of a survey done under their direct supervision, b) the map accurately represents the depth of cover material at the locations depicted, and c) the cover material used at the homesite was from the area previously sampled and determined to be an acceptable arsenic content (that is, 100 ppm or less arsenic).

In summary, if soil covering was performed, the following material must be submitted to the county in order to obtain an occupancy permit:

1. A survey map showing depth of clean cover and certification by a licensed South Dakota land surveyor; and

2. Cover material sampling results.

APPENDIX C

POSTCONSTRUCTION SAMPLING

1.0 INTRODUCTION

This section outlines the requirement for postconstruction sampling at homesites within the Area. This sampling must be done on site where homes were built but soil covering was not done. This sampling must be done in order to obtain an occupancy permit. This sampling must be done regardless of whether the preconstruction samples were "clean."

2.0 SAMPLE NUMBER, LOCATION, AND LOCATION SURVEYING

Four postconstruction soil sample locations per each 1/2 acre of proposed high use area are required for a homesite. Two samples collected from two different depth intervals as described below are required for each location for a total of eight samples per 1/2 acre site. The sample locations should be regularly spaced across the property within the proposed high use area. In other words, the samples should be located such that each sample location represents roughly the same sized area within the high use area; that is, approximately 1/8 of an acre. However, at least one sample location must be placed in each type of high use area; that is, in the yard, garden, and driveway/parking areas. Therefore, if any one high use area is relatively small in size compared to the remainder of the high use areas (as in the case of a small garden), a sample must be collected from this area even if it represents a much smaller area than other high use area samples. Because of this requirement certain specific samples may represent areas greater than 1/8 acre but the entire high use area will still contain four sample locations per 1/2 acre.

To document the locations of the postconstruction samples, sample locations must be surveyed by a South Dakota licensed professional surveyor. This survey can be completed prior to or following actual sampling activities. Surveying of sample locations can probably be completed most efficiently and accurately at the time samples are being collected. Sample locations can be referenced to building corners, and the survey must be accurate within a five-foot area. The map produced from this survey should be at a scale of 1 inch = 20 feet and contain the postconstruction sample locations as well as analytical results. The map must contain a statement by a South Dakota Registered land surveyor certifying that the map is of a survey conducted under their direct supervision and that the map accurately represents the location of the samples shown.

3.0 SAMPLE COLLECTION AND LABELING

Sample Depths. For postconstruction sampling, yard and driveway samples must be collected from two depth intervals: 0 to 1 inch and 5 to 6 inches. In proposed garden areas, samples must be collected from two depth intervals: 0 to 1 inch and 11 to 12 inches.

Excavation and Collection. The samples to be collected will be separate samples of soil collected from each depth at each location. One sample should be collected at a time using the following procedures. Surface vegetation (if present) should be removed prior to collecting a surface (0 to 1 inch) soil sample. In yard and driveway areas, the surface sample will be collected by breaking up the soil in a circular area approximately 6 inches in diameter with a clean bar or shovel, if necessary. An approximate 8-ounce volume (i.e., cup) of soil should be collected using a clean (washed) non-painted garden trowel (hand spade) and be placed in a ziplock bag.

Following collection and bagging of the yard and driveway surface sample, soil should be removed from the sampling excavation down to a depth of 5 inches. The next inch of soil should be loosened with a clean (decontaminated) shovel. One approximate 8-ounce sample of soil should be removed (probably through the use of a clean garden trowel) from the excavation and placed into another ziplock bag.

For garden samples, the surface soil sample must be collected from a circular area approximately 12 inches in diameter. (A larger excavation is necessary in the collection of garden samples to physically allow for the collection of a deeper sample without excessive slumping of material from the excavation sides.) After collecting the surface sample, the area should be dug down to 11 inches. An approximate 8-ounce sample of soil should be removed from the 11 to 12 inch depth and placed into a ziplock bag. Care must be taken to avoid pushing dirt into the hole from shallower depths.

If surveying of sample locations has not taken place prior to or during sampling activities, the sample location should be marked with a survey stake or other marker to allow for an accurate sample location survey at a later date.

Sample Number and Tag. A sample number must be assigned to each sample collected since it is important as documentation of the sampling program completion. It may be useful to include a designation letter(s) in the sample number to indicate which area of the property the sample represents. Also, some notation as to the sample depth should be included so that samples from the same location but from different depth intervals are not confused. For example, the sample number might be "NE2-5" indicating the second sample collected is from the northeast corner of the high use area at a depth of 5 to 6 inches, or SW5-0, indicating the fifth sample collected is from the southwest corner of the high use area at a depth of 0 to 1 inches.

The sample number should be written on the outside of the ziplock bag with a permanent marker. Two sample tags should be filled out for each sample using a permanent marker. Sample tags should be made from heavy paper such as construction paper, note cards, or light cardboard. The sample tags should have the following information:

- sample number;
- signature of sample collector;
- date and time of sample collection;
- analysis instructions for the analytical laboratory (i.e., "analysis for total arsenic, reported in dry weight, using EPA Methods 3050 and 7060").

Both the sample in the ziplock bag and the one sample tag should be placed inside a second ziplock bag. The second sample tag should be stapled across the top of the outer bag. Samples should be placed in an ice chest or heavy cardboard box and kept at normal temperatures for transport to the laboratory.

Equipment decontamination (cleaning). All sampling equipment (bars, shovels, trowels, plastic cups, etc.) should be decontaminated (washed) before each sample is collected. Sampling equipment should be rinsed thoroughly with distilled water and wiped dry with a clean paper towel (paper towels should not be used more than one time).

4.0 LABORATORY ANALYSIS

The postconstruction soil samples collected as directed above must be analyzed by a qualified analytical laboratory for total arsenic reported in dry weight using EPA Methods 3050 and 7060. (Qualified laboratories will be familiar with these analytical method numbers.) The laboratory completing the soil analysis should report arsenic concentrations in milligrams per kilogram (mg/kg) dry weight which is equivalent to parts per million (ppm).

A listing of local laboratories can be obtained in the area phone book yellow pages under the heading "Laboratories/Testing". The specific laboratory chosen should be contacted prior to sample delivery to assure their ability to complete the required analysis.

5.0 ANALYTICAL RESULTS AND LANDOWNER CHOICES

In order to obtain an occupancy permit, the landowner must submit postconstruction sampling results to the county. The arsenic results must all be 100 ppm or less. Therefore, following analysis of the postconstruction samples, the landowner should evaluate the results. If the results are "clean" (that is, 100 ppm arsenic or less) the results should be submitted to the county for an occupancy permit. Results should be submitted to the county in the following format:

- A certified survey map (specified in Section 2.0 of this Appendix) showing sample locations and analytical results at a scale of 1 inch = 20 feet; and
- A copy of the laboratory analytical report.

If any of the sample results have arsenic levels of greater than 100 ppm, the landowner must perform the soil covering activities as described in Appendix "B" of this document.

APPENDIX D

OPERATIONS AND MAINTENANCE (O&M) SAMPLING ACTIVITIES

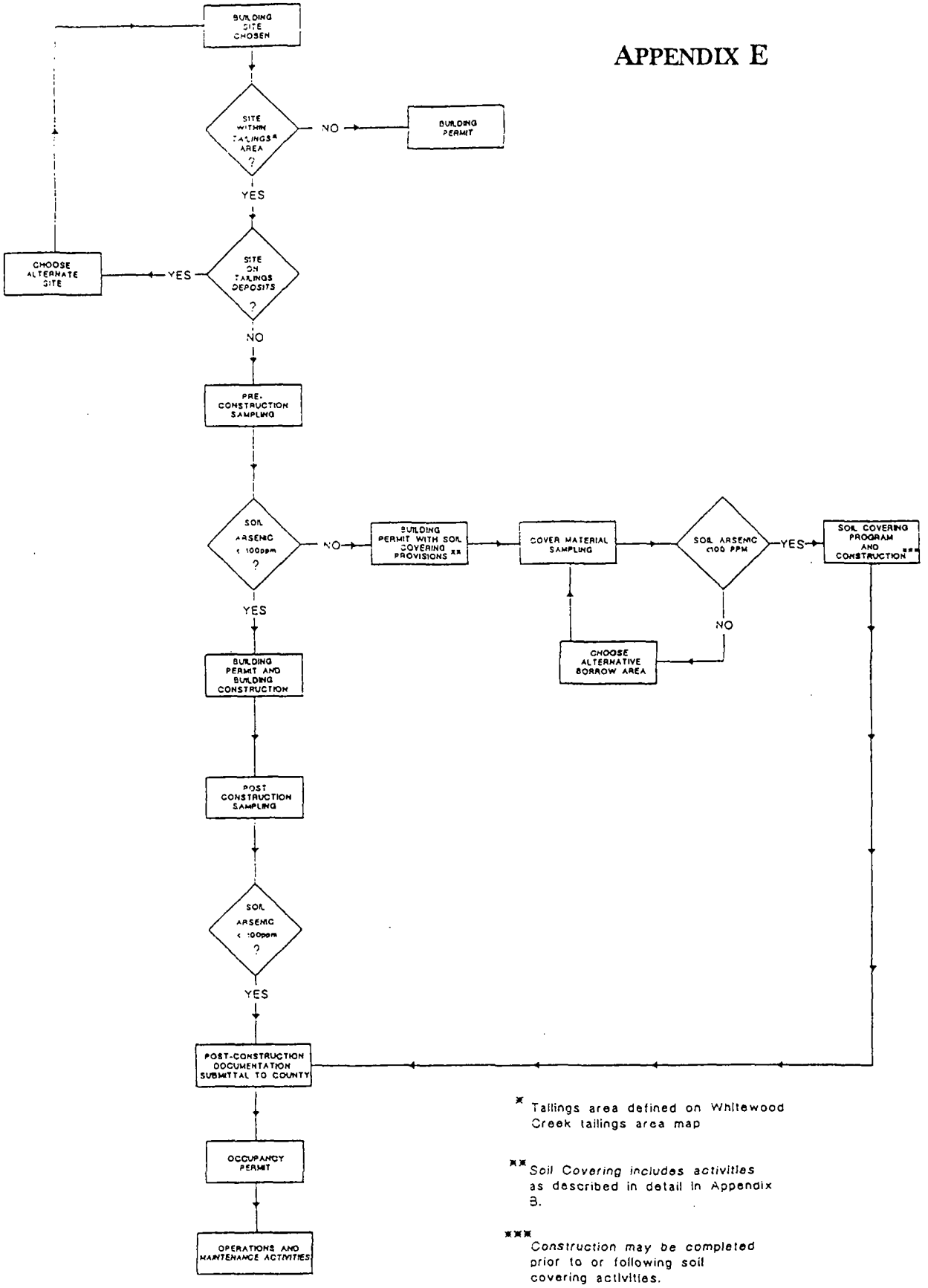
Landowners of new homesites within the Area must resample their high use areas at five year intervals. This sampling is required in order to demonstrate that high use areas have not been recontaminated with tailings. This section outlines requirements of O&M sampling at new homesites within the Area.

O&M sampling must be conducted in the same manner as the postconstruction sampling activities as described in this Appendix (ie. Section 2.0, 3.0 and 4.0). Sampling must occur throughout the Area on five year intervals. The first sampling must occur in the summer of 1996. EPA will then determine if further testing is required. Landowners of new homesites must submit a sampling report (as described in Section 5.0) to the county before September 1, 1996.

If, during O&M sampling, arsenic levels above 100 ppm are detected, landowners must conduct soil covering activities as described in Appendix B of the document.

APPENDIX E

HOMESITE DEVELOPMENT FLOWCHART FOR WHITEWOOD CREEK TAILINGS AREA



* Tailings area defined on Whitewood Creek tailings area map

** *Soil Covering includes activities* as described in detail in Appendix B.

*** *Construction may be completed* prior to or following soil covering activities.

PROJECT NO.	PREPARED BY:	FIGURE 1993-B
01944		
DATE 05/93	STEFFEN ROBERTSON & KIRSTEN (U.S.) Consulting Engineers & Scientists	Whitewood Creek Tailings Area Homesite Development Flow Diagram
REVISION 1		

LAWRENCE COUNTY COMMISSION MEETING MINUTES

First Reading - December 15, 1993

PUBLIC HEARING - WHITEWOOD CREEK TAILINGS AREA ORDINANCE - PHIL BARNES: Phil Barnes, of Homestake Mining Company, proposed an amendment to the Zoning Ordinance, Section 3.11, on the Whitewood Creek Tailings area ordinance. Steve Peters abstained from action due to a conflict of interest. Barnes presented a summary sheet and the proposed ordinance and reviewed the details with the Board. Barnes pointed the proposed ordinances had been put together with a tremendous amount of input from landowners and they had tried, to the extent possible, to

address all of the landowner concerns. Barnes noted in Section B.1 of the proposed ordinance the term "commercial use" did not include agricultural use. Barnes added other uses which were not included in the term commercial included firewood gathering, hay cutting & selling of that hay, barns, storage sheds, corrals, calving sheds, of those type of agricultural structures. Barnes informed the Board these items were not classified as involving human occupancy; therefore, would be allowed on the tailing. Barnes stated the handbook referred to in Section B.2 was really a guide to soil sampling which outlined the EPA requirements for collecting the soil samples, having them analyzed and getting that information back to the county. Barnes noted if the ordinance were to be adopted, Homestake would request that the handbook would be modified only through public process to allow landowners to be involved in any modifications. Barnes explained the reason behind Section B.3 was to avoid removal of tailings and distribution of them in a residential area. Barnes added mining of the area was allowed with the appropriate state and county approval. Barnes also noted this ordinance in no way excluded the requirement of a CUP form the county as part of the mining process. Barnes pointed out the ordinances were the final step in the total picture of the clean-up of Whitewood Creek. Barnes added that clean-up included the tailing impoundment by Homestake in 1977, Lead-Deadwood Sanitary District in 1978, removal of the Deadwood City Dump in the late seventies, Homestake's Waste Water Treatment Plant, and clean up of the residents along the creek. Barnes added everything which had been done on Whitewood Creek Superfund had been funded by Homestake Mining Company. Tommy Thompson, landowner, believed the land purchase offers should be made prior to the adoption of the ordinances. Thompson questioned whether Homestake's liability ended once the ordinance was passed. Chairman Apa stated the county had received a letter from Al Winters of Homestake and from the States Attorney stating that Homestake accepted all liability and should there be any lawsuits which arise, Homestake would defend the county in court. Mr. Thompson questioned whether that would take care of the executive order 12-6-30, which passed in 1988, for the actions undertaken by government officials which result in physical invasion of occupancy of private property that shall affect the value of the property. Barnes stated Homestake would defend the county in any lawsuit. Barnes added they were very concerned c.. the takings issue and that was why they had put together some alternatives for the landowner as far as purchase or restrictive covenants. Barnes stated there was an offer, in writing, to each landowner and they were currently in the process of trying to line out the appraisals. Barnes added the offers for purchase would continue through July, 1996. Barnes stated the independent appraised values of the properties would be made exclusive of any superfund designation and the value would be determined by a standard appraisal and by comparative sales of similar land. Roger Tellinghuisen, Attorney, informed the Board that the land offers which were made entitles the landowners to get paid for their property and also get to continue use of the land. Barnes noted the right of use of the land could be passed on to heirs. Charles Wennberg, landowner,, questioned whether Meade and Butte Counties had passed the ordinances at the time. Barnes stated they had been through a first reading in Meade County and a second reading was scheduled for January 4, 1993. Barnes added they had been before the Planning Commission and County Commission in Butte County, but they had not yet set a public hearing. Barnes pointed out the language in all of the proposed ordinances was the same and they try to move things along in each county parallel to each other. Chairman Apa turned the meeting over to the Planning and Zoning Commission. It was Moved-Seconded (Carr-Mattson) to approve the proposed ordinance. A first reading was held. The Second Reading was scheduled for January 12, 1994 at 11:30 a.m.

LAWRENCE COUNTY COMMISSION MEETING MINUTES

Second Reading & Adoption - January 12, 1994

SECOND READING - AMENDMENT TO LAWRENCE COUNTY ZONING ORDINANCE: The Second Reading of an Amendment to the Lawrence County Zoning Ordinance, Section 3.11 - Whitewood Creek Tailings Area Ordinance was held. Steve Peters, Homestake Mining Company, explained to the Board the three areas which needed to be addressed in the minutes in regard to the ordinance were as follows: 1) If the handbook referred to in the ordinance were to be changed it would be required to go through the public review process; 2) The commercial uses as referred to in the ordinance were not intended to include agricultural commercial uses such as selling hay, selling calves or selling firewood, the term commercial uses was included to address commercial building which were inhabited by humans; 3) In restricting the taking of material from the tailings, the ordinance was not restricting "rock hounding" or in other words someone going down to the site and taking a rock.

Moved-Seconded (Frawley-Ervin) to adopt and authorize the Chairman to sign an amendment to the Zoning Ordinance Section 3.11 adopting the ordinance, map and handbook which will include an approved ordinance. Motion carried.

MEADE COUNTY COMMISSION MEETING MINUTES

First Reading - December 8, 1993

A do-pass motion on Ordinance No. 16, An Ordinance of Meade County Providing Regulations Governing Building In The Tailings Area of Whitewood Creek and Providing for Enforcement of Such Regulations, was made by Voorhees, seconded by Bachand, all Commissioners voted yes./approval was given on the first reading of the Ordinance. On motion by Bachand, seconded by Reed, all Commissioners voted yes, motion by Hansen, seconded by Voorhees, all Commissioners voted yes, a hearing was set for January 4, 1994, at 2:00 PM for the second reading and adoption of this ordinance.

Second Reading & Adoption - January 4, 1994

At 2:00 PM a hearing was held on Ordinance No. 16, "An Ordinance of Meade County Providing Regulations Governing Building In The Tailings Area of Whitewood Creek & Providing for Enforcement of Such Regulations." On motion by Voorhees, seconded by Reed, this ordinance was placed on second reading, with a do-pass motion. Voting yes: All present. Voting no: None. Motion carried. Motion was made by Voorhees, seconded by Reed, the ordinance be adopted on the second reading. Voting yes: All present. Voting no: None. Motion carried.

BUTTE COUNTY COMMISSION MEETING MINUTES

First Reading - January 4, 1994

Whitewood Creek Report:
Steve Peters & Phil Barnes, representatives from Homestake Mining Co., met with the Board to discuss the proposed ordinance regulating use of land along Whitewood Creek. The Board held the First Reading of Ordinance Number 94-1 titled "An Ordinance of Butte County Providing Regulations Governing Building in The Tailings Area of Whitewood Creek and Providing for Enforcement of Such Regulations." The Second Reading of Ordinance Number 94-1 will be February 1, 1994 at 10:30 A.M. at the Commissioners Room, Butte Co. Courthouse, Belle Fourche, SD.

Second Reading & Adoption - February 1, 1994

Ordinance Number 94-1: The 2nd reading of Ordinance Number 94-1 titled "An Ordinance of Butte County Providing Regulations Governing Building in the Tailings Area of Whitewood Creek and Providing For Enforcement of Such Regulations" was held at this time. Present were Steve Peters & Phil Barnes, representing Homestake Mining Co. and Jack Church, VSO/CD Officer. There were no objections or any changes recommended at this reading. Motion Comm. Goss, second Comm. Reder to pass Ordinance Number 94-1 as read. The Board was polled: Comm. Hannah yes, Comm. Wahlfeldt yes, Comm. Reder yes, Comm. Goss yes, Comm. Kudlock yes.

APPENDIX F

AN ORDINANCE AMENDING LAWRENCE COUNTY
ZONING ORDINANCE
ORDINANCE NUMBER ONE

No. 61

BE IT ORDAINED: By Lawrence County, South Dakota, that the Lawrence County Zoning Ordinance, Ordinance Number One, be amended so as to include the following:

SECTION 3.11 WHITEWOOD CREEK TAILINGS AREA ORDINANCE

A. Findings of Fact:

1. EPA has delineated a Superfund Site along Whitewood Creek in portions of Lawrence County.

2. EPA has identified elevated soil arsenic levels within the site.

3. EPA has defined certain health risks associated with arsenic.

4. EPA has determined that a county ordinance could provide appropriate protection for public health.

5. The following ordinances meet the requirement of EPA's Record of Decision dated March 30, 1990.

The following ordinances with accompanying map are adopted by the county to guide building permit issuance within the site.

B. Ordinances:

1. The construction or placement of any building or facility for residential or commercial use involving occupancy by humans on the "tailings deposit areas" of Whitewood Creek is prohibited. For purposes of this ordinance, the "tailings deposit areas" of Whitewood Creek are depicted on the map which accompanies this ordinance as Figure 1.

2. The construction or placement of any building or facility for residential use involving occupancy by humans on the "tailings impacted areas" of Whitewood Creek is restricted to areas having 100 parts per million or less arsenic. For purposes of this ordinance, the "tailings impacted areas" of Whitewood Creek are depicted on the map which accompanies this ordinance as Figure 1. Methodology for demonstrating arsenic levels are described in the Lawrence County Whitewood Creek Tailings Area Handbook Appendices. No occupancy permit will be issued until the petitioner has complied with the requirements of the Handbook.

3. The removal of sand, soils or rock in any form for an purpose whatsoever from the "tailings deposit area o Whitewood Creek to areas outside the "tailings deposi areas", except in compliance with a mining permit issue by the State of South Dakota or any duly authorize agency thereof, is prohibited. For purposes of thi ordinance, the "tailings deposit areas" of Whitewoo Creek are depicted on the map which accompanies thi ordinance as Figure 1.

ATTEST:

Lawrence County Board of Commissioners

by _____
Chairman

_____
Lawrence County Auditor
(Seal)

Lawrence County States Attorney

by _____
States Attorney

First Reading: 12-15-93
Second Reading: 1-12-94
Adoption Date: 1-12-94

PUBLISH: 1-19-94

Black Hills Pioneer
Lawrence County Centennial

APPENDIX F

ORDINANCE NO. 16

AN ORDINANCE OF MEADE COUNTY PROVIDING REGULATIONS GOVERNING BUILDING IN THE TAILINGS AREA OF WHITEWOOD CREEK AND PROVIDING FOR ENFORCEMENT OF SUCH REGULATIONS.

THE GOVERNING BODY OF MEADE COUNTY DOES ORDAIN AS FOLLOWS:

Section 1 - Findings

1. EPA has delineated a super fund site along Whitewood Creek in portions of Meade County;

2. EPA has identified elevated soil arsenic levels within the site;

3. EPA had defined certain health risks associated with the arsenic;

4. EPA has determined that a county ordinance could provide appropriate protection for public health;

5. The following ordinance meets the requirements of EPA's Record of Decision dated March 30, 1990.

Section 2 - Tailings Deposit Areas

1. The construction or placement of any buildings or facility for residential or commercial use involving occupancy by humans on the "tailings deposit areas" of Whitewood Creek is prohibited. For purposes of this Article, the "tailings deposit areas" of Whitewood Creek are depicted on the map which accompanies this Ordinance as Appendice No. 1.

Section 3 - Tailings Impacted Areas

1. The construction or placement of any building or facility for residential use involving occupancy by humans on the "tailings impacted areas" of Whitewood Creek is restricted to areas having 100 parts per million or less arsenic. For purposes of this Article, the "tailings impacted areas" of Whitewood Creek are depicted on the map which accompanies this Ordinance as Appendice No. 1. Methodology for demonstrating arsenic levels are described in the Meade County Whitewood Creek Tailings Area Handbook Appendices. No occupancy permit will be issued until the Petitioner has complied with the requirements of the handbook.

Section 4 - Removal From Tailings Deposit Areas

The removal of sand, soils or rock in any form for any purpose whatsoever from the "tailings deposit areas" of Whitewood Creek to areas outside the "tailings deposit areas", except in compliance with a mining permit issued by the State of South dakota or any duly authorized agency thereof, is prohibited., For purposes of this Article, the "tailings deposit areas" of Whitewood Cree are depicted on the map which accompanies this Ordinance as Appendice No. 1.

Section 5 - Enforcement

1. Whoever, being the owner or agent of the owner of any land located within Meade County being found in violation of any of the regulations of this Ordinance shall be subject to an action for injunctive relief brought by Meade County. The governing body may recover the same penalty by civil action in any court of competent jurisdiction, according to SDCL 11-2-34.

DATED at Sturgis, South Dakota, this 4th day of January, 1994.

John Overholt
Chairman - Board of County Commissioners Meade County

ATTEST:

Elizabeth A. Reutzel
Meade County Auditor

(Seal)

DATE OF FIRST READING: December 8, 1993
DATE OF SECOND READING: January 4, 1994
ADOPTED: January 4, 1994
DATE OF PUBLICATION: January 15, 1994 and January 19, 1994

APPENDIX F

ORDINANCE NUMBER 94-1

TITLED

AN ORDINANCE OF BUTTE COUNTY PROVIDING REGULATIONS GOVERNING BUILDING IN THE TAILINGS AREA OF WHITEWOOD CREEK AND PROVIDING FOR ENFORCEMENT OF SUCH REGULATIONS.

BE IT ORDAINED BY BUTTE COUNTY AS FOLLOWS:

Section 1 - Findings

1. EPA has delineated a superfund site along Whitewood Creek in portions of Butte County;
2. EPA has identified elevated soil arsenic levels within the site;
3. EPA has defined certain health risks associated with the arsenic;
4. EPA has determined that a county ordinance could provide appropriate protection for public health;
5. This ordinance meets the requirements of EPA's Record of Decision dated March 30, 1990.

Section 2 - Tailings Deposit Areas

1. The construction or placement of any buildings or facility for residential or commercial use involving occupancy by humans on the "tailings deposit areas" of Whitewood Creek is prohibited. For purposes of this Article, the "tailings deposit areas" of Whitewood Creek are depicted on the map which accompanies this Ordinance as Appendix No. 1.

Section 3 - Tailings Impacted Areas

1. The construction or placement of any building or facility for residential use involving occupancy by humans on the "tailings impacted areas" of Whitewood Creek is restricted to areas having 100 parts per million or less arsenic. For purposes of this Article, the "tailings impacted areas" of Whitewood Creek are depicted on the map which accompanies this Ordinance as Appendix No. 1. Methodology for demonstrating arsenic levels are described in the Butte County Whitewood Creek Tailings Area Handbook Appendices. No occupancy permit will be issued until the Petitioner has complied with the requirements of the handbook.

Section 4 - Removal From Tailings Deposit Areas

1. The removal of sand, soils or rock in any form for any purpose whatsoever from the "tailings deposit areas" of Whitewood Creek to areas outside the "tailings deposit areas", except in compliancy with a mining permit issued by the State of South Dakota or any duly authorized agency thereof, is prohibited For purposes of this Article, the "tailings deposit areas" of Whitewood Creek are depicted on the map which accompanies this Ordinance as Appendix No. 1.

Section 5 - Penalty

1. It is declared unlawful for any person to violate any of the terms and provisions of this ordinance. Violation thereof shall be a misdemeanor and

shall be punishable by a fine not exceeding $100 for each and every day that any violator fails to comply with the provisions of this ordinance or by imprisonment for a period not exceeding thirty (30) days, or by both such fine and imprisonment.

2. All monies collected will be deposited in the County General Fund.

First Reading - January 4, 1994

Second Reading - February 1, 1994

This ordinance will become effective on the twentieth day after its completed publication.

This ordinance was passed by a majority vote of the Butte County Commissioners.

DATED at Belle Fourche, South Dakota, this 1st day of February, 1994.

Chairman - Board of County Commissioners
Butte County

ATTEST:

Sally Pflaumer
Butte County Auditor

(Seal)

Date of First Reading: 1/4/94
Date of Second Reading: 2/1/94
Adopted: 2/1/94
Date of Publication:

B.F. POST - 2/9/94
B.F. BEE - 2/12/94
BUTTE CO. VALLEY IRRIGATOR - 2/9/94

APPENDIX G

SOUTH DAKOTA ADMINISTRATIVE RULE 74:02:04:26

74:02:04:26. Well construction prohibited along sections of Whitewood Creek and sections of Belle Fourche River -- Variance. No well that supplies water to the public as described in §74:02:04:30 or that supplies water for household domestic use or for agricultural purposes may be constructed in the 100-year flood plan of Whitewood Creek from the Crook City Bridge, above the town of Whitewood, Lawrence County, in the Northeast Quarter of the Northeast Quarter of Section 33, Township 6 North, Range 4 East of the Black Hills Meridian, downstream to the confluence of Whitewood Creek and the Belle Fourche River, Butte County, in the Northeast Quarter of the Northeast Quarter of Section 24, Township 8 North, Range 5 East, and the 100-year flood plain of the Belle Fourche River to two and one-half miles downstream from the confluence of Whitewood Creek, Butte County, in the Southwest Quarter of the Southwest Quarter of Section 20, Township 8 North, Range 6 East. A variance may be granted from this section if it is shown that a well in this location will not be contaminated from tailings deposits and will not cause ground water pollution. The variance shall be by written order of the chief engineer or the Board.

SECTION C (Continued)

COUNTY COMMISSION MEETING MINUTES

LEVEL 1 - 11 OF 35 DOCUMENTS

SOUTH DAKOTA ADMINISTRATIVE CODE

*** INCLUDING REVISIONS RECEIVED BY THE PUBLISHER AS REPORTED THROUGH 30 SDR 138, EFFECTIVE THROUGH MARCH 16, 2004 ***

TITLE 74. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
ARTICLE 2. WATER RIGHTS

74:02:04:26. Well construction prohibited along sections of Whitewood Creek and sections of Belle Fourche River -- Variance

(5) No well that supplies water to the public or supplies water for household domestic use or for agricultural purposes may be constructed in the 100-year flood plain of Whitewood Creek from the Crook City Bridge, above the town of Whitewood, Lawrence County, in the northeast quarter of the northeast quarter of section 33, township 6 north, range 4 east of the Black Hills meridian, downstream to the confluence of Whitewood Creek and the Belle Fourche River, Butte County, in the northeast quarter of the northeast quarter of section 24, township 8 north, range 5 east, and the 100-year flood plain of the Belle Fourche River to two and one-half miles downstream from the confluence of Whitewood Creek, Butte County, in the southwest quarter of the southwest quarter of section 20, township 8 north, range 6 east. A variance may be granted from this section if it is shown that a well in this location will not be contaminated from tailings deposits and will not cause groundwater pollution. The chief engineer or the board shall grant a variance by written order.

GENERAL AUTHORITY: SDCL 34A-2-93, 46-2-5, 46-6-20, 46-6-27.
LAW IMPLEMENTED: SDCL 34A-2-21, 46-6-6.1, 46-6-20, 46-6-27.
The chief engineer or the board shall grant a variance by written order.

GENERAL AUTHORITY: SDCL 34A-2-93, 46-2-5, 46-6-20, 46-6-27.
LAW IMPLEMENTED: SDCL 34A-2-21, 46-6-6.1, 46-6-20, 46-6-27.

12 SDR 50, effective September 29, 1985; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 18 SDR 224, effective July 16, 1992.