

1 (B) is not subject to the jurisdiction of the
2 Federal Energy Regulatory Commission;

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

6 (A) would maintain the historic benefits of
7 the Plant; and

8 (B) would not—

9 (i) affect the validity of the right-of-
10 way grant; or

11 (ii) subject the Plant to the jurisdic-
12 tion of the Commission; and

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

16 (A) fish hatchery operations;

17 (B) recreation;

18 (C) historical interpretation;

19 (D) irrigation;

20 (E) hydroelectric power generation; and

21 (F) the aesthetic value of Spearfish City

22 Park.

23 **SEC. 2. DEFINITIONS.**

24 In this Act:

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

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

5 (A) is located in Lawrence County, South
6 Dakota;

7 (B) operates in accordance with a valid
8 right-of-way grant—

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

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

15 (C) is described in Commission docket
16 number UL00–3.

17 (3) SECRETARY.—The term “Secretary” means
18 the Secretary of the Interior.

19 **SEC. 3. EXEMPTION OF THE PLANT FROM COMMISSION JU-**
20 **RISDICTION.**

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

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

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

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

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

10 It is the sense of Congress that the city of Spearfish,
11 South Dakota, to provide for the restoration and improve-
12 ment of Spearfish Creek, should—

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

16 (2) take action to release additional water flow
17 of approximately 5 to 10 cubic feet per second be-
18 tween the Maurice Intake Dam and the Spearfish
19 Diversion.

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