

**Joe Girardin - Sand Creek petition, #07-1102**

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**From:** K Haiar <khair@jmail.com>  
**To:** <jgirar@state.wy.us>  
**Date:** Thu, Aug 21, 2008 9:31 PM  
**Subject:** Sand Creek petition, #07-1102

**FILED**

AUG 22 2008

Jim Ruby, Executive Secretary  
Environmental Quality Council

Dear Mr. Girardin,

I am writing to comment on the petition to designate a portion of Sand Creek as Rare and Uncommon. The submitted petition includes factual inaccuracies and misrepresentations which I feel obligated to address in this email. In general, this petition presents an underwhelming and weak case for Rare and Uncommon designation on the upper Sand Creek drainage. Specifically, the petition fails to demonstrate its identified values exist as "very rare or uncommon" which is required by Section 11(a) of the rule.

Mule Deer

On July 15, I contacted Joe Sandrini with the Wyoming Game and Fish Department (WGFD) by phone. He stated the WGFD manages the mule deer populations as a herd unit. In practical terms, the WGFD makes management decisions based on a much broader perspective than individual and isolated circumstances affecting local deer populations. He also said that the migratory behavior of mule deer in the Black Hills unit (which covers most of Crook County and the northeast corner of Weston County) is much lower than that exhibited by other mule deer herds in the state. The smaller migration movements result in fewer and less concentrated groupings of mule deer compared to other areas of the state. Therefore, as a whole the Black Hills mule deer herd is more resilient to habitat impacts than other herds. Due to the WGFD management policies and the Black Hills mule deer migratory behavior, habitat impacts in the upper Sand Creek drainage have minimal influence on the overall mule deer herd population as the WGFD currently manages it.

Finally, during our conversation Mr. Sandrini expressed confusion as to why he was listed as an expert witness list in this petition. He commented that if called, his testimony would follow what I outlined above which he believed was not supportive of the proposed Rare and Uncommon designation.

Finescale dace

The petition describes the finescale dace as an “extremely rare” native fish. This characterization is not supported by the petition or the listed references. For example, the petition states (page 5, last paragraph) there are “isolated populations or finescale dace that exist in spring seeps in Nebraska, Wyoming, and South Dakota.”. Review of the petition reference (Stasiak, R. and G. R. Cunningham, 2006) reveals that finescale dace inhabit nearly the entire Black Hills National Forest. They are also located in Niobrara river drainages in Wyoming according to a WGFD document cited in the petition.

In addition, there are serious questions concerning the origins of the finescale dace population in the Sand Creek area. The petition states (page 6, paragraph 2) “reports indicate the population was planted in 1983 (e.g. WGFD 1996a) using stock from nearby sources.”. Therefore, the finescale dace populations in the Sand Creek drainage have either been established or supplemented by the Wyoming Game and Fish Department.

The size of the identified habitat for finescale dace surrounding the petition area and questions concerning the origin of the specific population in the petition area make it nearly impossible to meet the “very rare or uncommon” criteria outlined in Section 11(a) of the rule.

#### Sand Creek - Class 1 stream designation

As stated in the petition (page 15, paragraph 6) “during the late 1990’s there was a proposal to downgrade a portion of Sand Creek within the petition area from Class 1 status” by the Environmental Quality Council. The petition argues the designation status change was rejected based solely on political pressure from local officials and landowners. I respectfully request the Environmental Quality Council to re-evaluate the need and reasoning for the originally proposed designation downgrade and include it as part of this process.

#### Botanical

The petition states that vegetation within the upper Sand Creek drainage “if unprotected, could become extinct or extirpated.” This is factually untrue due to the existence of Forest Service Botanic Areas existing in the petition area. The Forest Plan has 8 Botanical Areas, totaling 8,120 acres. Of these, two of them are in the Rare and Uncommon petition area. These are Dugout Gulch at 651 acres and Upper Sand Creek (Spotted Tail) at 1,395 acres for a total of 2,046 acres.

As stated in the Black Hills National Forest Land and Resource Management Plan Phase II DEIS, “All eight botanical areas would be managed to protect their

botanical attributes under all alternatives. Human impact to botanical areas is minimized by restricting use of these areas to non-motorized dispersed recreation; restricting motorized use to established routes (except for administrative or emergency use); limiting timber harvest; controlling noxious weed infestations; protecting populations or individual rare plants from livestock grazing trampling damage; and withdrawal from mineral entry." Therefore, the Forest Service is already actively managing these vegetation types in areas delineated by their own objective process.

In several instances the petition describes the area as pristine. This is an obvious exaggeration. The petition area nearly includes the former mining town of Tinton. Tinton was active as a mine and later a saw mill until the 1940's. The petition area is also adjacent to a former Civilian Conservation Corp (CCC) camp and several private properties encompassed by the petition area are excluded from the Rare and Uncommon designation. Finally, the petition states (page 13, paragraph 3) "Portions of the Sand Creek streambed in the petition area have been subjected to placer mining."

The statement that "the upper Sand Creek is an area largely undisturbed from logging" is completely false. Most of the petition area was logged in the 40s and 50s and the area surrounding Green Hill has been logged as recently as the 80s. This is evidenced by the many miles of old yarder roads and two track haul roads throughout the forest. There are over 25 miles of travel ways (yarder roads and two track haul roads) within the 6,000 acre designated "roadless" area alone. The amount of past and current human activity and historic travel ways present in the petition area make it difficult to categorize this area as "pristine" or "largely undisturbed".

### Scenic Values

The scenic values present in the petition area do not meet the criteria given in Section 11(a) of the rule. Commonly available travel guides and maps do not mention the petition area in general or any prominent landscape features specifically. These resources do identify Devils Tower, the Needles, Spearfish Canyon and Roughlock Falls, Iron Creek Lake, and Crow Peak as significant features within the Black Hills.

Several instances are used to bolster the scenic value of the petition area. The first is the excerpt from Hiram Rogers's guidebook (page 12 of the petition). This is a botanical not scenic comment on the petition area. It should be noted that Mr. Rogers's observation contains a gaffe. The "lowly hound's tongue" brightening the valley is designated a noxious weed by the Crook County Weed and Pest. The second is the excerpt from Edward Raventon's book. This description is misleading due to the fact that the mentioned setting, though

beautiful, is not located within the petition area.

In closing, this petition has failed to demonstrate that any particular value found within the upper Sand Creek drainage exists as very rare or uncommon. Specifically, none of the identified values meet the requirements of Section 11(h) of the rules. The petition does not show the area is:

- considered very rare or uncommon when compared with other areas of the state or region;
- seldom found within the state or region; or
- known or suspected to be declining which, if left unprotected, could become extinct or extirpated.

I therefore request the Council deny this petition at it upcoming September hearing.

Sincerely,

Keith Haiar, MSCE

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