



Lakota People's Law Project is a project of Sacred Defense Fund, a nonprofit protecting the lands, waters and communities of Turtle Island.

Pe'Sla Holds: Legal Analysis, Executive Summary

How Tribal Nations Stopped a Mining Company in the Heart of the Black Hills and What It Means for the Next Fight

Prepared by Lakota People's Law Project

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On May 5, 2026, a federal judge ordered all drilling halted at Pe'Sla. Three days later, Pete Lien and Sons withdrew its Plan of Operations entirely. A mining company backed by a federal "critical minerals" designation walked away from the heart of the Black Hills. Here is why it happened, and what it means.

What Was at Stake

Pete Lien and Sons proposed up to 18 graphite exploration boreholes, at 1,000-foot depths, on National Forest land within the two-mile cultural landscape of Pe'Sla, the most sacred site of the Great Sioux Nation. The U.S. Forest Service approved the project in February 2026 using the most minimal form of environmental review available under federal law, with no full public process and no meaningful government-to-government consultation with tribal nations.

How the Win Was Built

NDN Collective, Black Hills Clean Water Alliance, and Earthworks filed suit April 27. Nine sovereign tribal nations: Cheyenne River, Crow Creek, Lower Brule, Oglala, Santee, Sisseton-Wahpeton Oyate, Spirit Lake, Standing Rock, and Yankton Sioux, filed a companion suit April 30. Both cases were heard together on May 4. The TRO issued May 5. Pete Lein withdrew its Plan of Operations entirely May 9.

The decisive legal argument: The Forest Service used a Categorical Exclusion that applies only to projects completable in one year, while simultaneously approving a plan requiring three years of monitoring, ongoing site modification authority, and a reclamation bond held for three years. The agency's own documents defeated the agency's own certification. The court found the approval arbitrary and capricious under federal law.

Supporting claims preserved for full litigation: The Forest Service failed to recognize Pe'Sla as an "extraordinary circumstance" requiring fuller environmental review. It refused meaningful government-to-government consultation with tribal nations despite formal requests from tribal councils. Its finding of "No Historic Properties Affected" was factually insupportable given the documented 484 traditional cultural properties within Pe'Sla and the Department of Interior's own 2016 trust decision recognizing the site.

Why Pete Lien Withdrew

The company faced years of litigation on a deposit with no confirmed recoverable graphite. The TRO ruling was unusually direct — the court essentially said the company's own paperwork defeated it. The reputational cost of being the company that drilled Pe'Sla outweighed any exploration upside for a regional limestone company whose core business is elsewhere. The court's nominal \$10,000 bond requirement signaled clearly how it was weighing the equities. And drilling equipment was on the ground adjacent to active sacred ceremonies.

How Durable Is the Victory

Secure: This specific project, under this plan, is done. Pete Lien cannot restart without a new plan, new environmental review, and the certainty of an immediate and better-prepared legal challenge.

Not yet secure: The unpatented mining claims remain on federal land. A revised plan addressing the one-year reclamation problem could be filed. The most durable path forward is merits litigation establishing that Pe'Sla constitutes an "extraordinary circumstance" requiring full environmental review categorically, making any future project dramatically more costly and time-consuming to permit.

What the Framework Offers the Next Fight

1. **Scrutinize the category of review, not just the quality.** Categorical Exclusions have hard textual limits. When reclamation extends beyond one year, CE-8 doesn't apply, and the agency's own plan documents will say so.
2. **The agency's documents are the case.** Internal contradictions between what agencies certify and what they require operators to do are among the most powerful evidence available.
3. **Tribes must be plaintiffs, not just witnesses.** Sovereign standing changes the character of litigation in ways organizational standing cannot replicate.
4. **Document sacred site use with specificity.** This ceremony. This location. This date. Concrete, contemporaneous documentation converts cultural harm from rhetoric into cognizable legal injury.
5. **MOUs are litigation assets.** The 2024 Forest Service, Great Sioux Nation co-stewardship agreement created an internal agency inconsistency that the court could not ignore.
6. **"Critical minerals" is not a legal exemption.** The court held explicitly that NEPA's procedural requirements apply to critical mineral projects the same as any other federal undertaking.

Based on court filings in NDN Collective v. U.S. Forest Service (5:26-cv-5035-CCT) and Cheyenne River Sioux Tribe v. U.S. Forest Service (5:26-cv-05051-CCT), D.S.D.

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