

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.

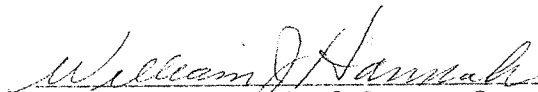
First Reading - January 4, 1994

Second Reading - February 1, 1994

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

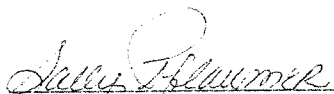
This ordinance was passed by a majority vote of the Butte County Commissioners.

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

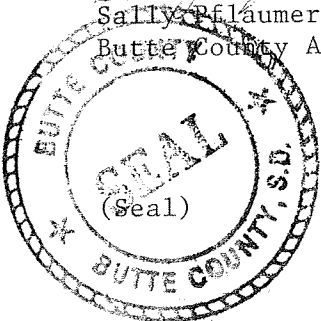


Chairman -- Board of County Commissioners
Butte County

ATTEST:



Sally P. Flaumer
Butte County Auditor



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