

## Kroll, Kari

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**From:** Darrel Smit  
**Sent:** Friday, March 20, 2026 2:29 PM  
**To:** Kroll, Kari  
**Subject:** [EXT] Darrel Smith Corson County Commission Letter

### To the Honorable Governor of South Dakota and Members of the South Dakota Legislature:

We, the Corson County Board of Commissioners, write to bring urgent attention to a matter that strikes at the heart of property rights, fair dealing with our citizens, and trust in the South Dakota Department of Transportation (SD DOT). Events involving landowner Mr. Darrel Smith reveal a troubling pattern of miscommunication and what appears to be the exploitation of easement language by SD DOT.

From our conversations with Mr. Smith, we learned the following:

On July 17, 2024, Mr. Smith signed a temporary easement to install two culverts. He was paid less than \$135 per culvert. That same day, he signed a permanent easement along Highway 1806 for which he received \$5,910. He was told this was to reduce the slope to the road and add water drainage pipes. The three-page agreement contains no mention of fill-dirt, nor does it give authority to the State to mine his property.

After a discussion with a contractor who claimed the State had designs for his dirt, Mr. Smith visited with the head of the Mobridge SD DOT office, which **confirmed his contract did not include fill-dirt**. It was only later—when a project contractor approached Mr. Smith about *purchasing* additional fill dirt—that he was shown construction diagrams indicating SD DOT claimed access to 18,000 cubic yards of his fill-dirt under this easement. **This was the first time Mr. Smith had ever been informed of the State’s intention to use his soil. This 18,000 cubic yards is roughly 3.6 million gallons of dirt.**

During that conversation, the contractor and Mr. Smith discussed a fair market price of **\$4.00 per cubic yard** from the nearby slope. Based on these numbers, the State would be using **approximately \$72,000** worth of Mr. Smith’s fill-dirt. Only later, a DOT representative out of Pierre claimed that the single word—“alter”—inside the easement granted the State the full right to mine his soil. At no point during negotiation was this interpretation communicated, implied, or even hinted at and the state plans to proceed without language in the contract and without any additional compensation.

This situation raises serious concerns. No landowner should first learn from a contractor that the State plans to use valuable resources from his land. No agreement should be interpreted so dramatically differently from what was represented—to the point that even local DOT staff were unaware of this interpretation out of Pierre. No landowner should be blindsided by hidden claims to millions of gallons of dirt he has owned and maintained for decades. And no landowner should have to hire an attorney to defend his dirt after signing, in good faith, what he believed was a straightforward State agreement.

**We urge you to investigate the SD DOT's actions in this case and restrict the Department from using vague or ambiguous language in easements to take advantage of South Dakota citizens.** Our landowners deserve clarity, transparency, and honesty—especially when dealing with our State.

We stand with Mr. Smith and with every South Dakotan who depends on fair, straightforward agreements when working with government agencies. Property rights are foundational to our way of life. They must not be eroded—literally or legally—through misrepresentation and legal gymnastics. We appreciate your immediate attention to this matter to restore trust in property rights in South Dakota.

**Sincerely,**

**Jacob Nehl**

**Chairman of the Corson County Board of Commissioners**

## Kroll, Kari

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**From:** Darrel Smith  
**Sent:** Friday, March 20, 2026 2:32 PM  
**To:** Kroll, Kari  
**Subject:** [EXT] Legislative Bill

[2026 South Dakota Legislature](#)

### [House Bill 1295](#)

Introduced by: **Representative** [Hunt](#)

#### **An Act to revise provisions for the acquisition of highway easements and rights of way.**

Be it enacted by the Legislature of the State of South Dakota:

##### **Section 1. [That § 31-19-1 be AMENDED:](#)**

**31-19-1.** The land or material for a right-of-way and borrow pit may be acquired for the state by the Department of Transportation, either by gift, purchase, or condemnation. If said the land or material is to be acquired by condemnation, the proceedings shall must be as provided by § [31-19-3](#).

##### **Section 2. That a NEW SECTION be added to chapter [31-19](#):**

The land or material for a borrow pit may be acquired for the state by the Department of Transportation, either by gift, purchase, or condemnation. If the land or material is acquired by condemnation, the proceedings must be as provided by § [31-19-3](#).

##### **Section 3. That a NEW SECTION be added to chapter [31-19](#):**

If the Department of Transportation is to acquire an easement or right of way for a borrow pit, the department must file a notice with the landowner and the register of deeds for the county in which the easement or right of way is located. The notice must state the purpose for the easement or right of way and state that just compensation must be paid to the landowner, as negotiated.

The notice must include the department's plans for the easement or right of way, and a detailed description of the property through, or over which, the proposed improvement is to be constructed.

All persons having an interest in, or a lien upon the property must be provided with a copy of the notice, insofar as those persons may be known at the time of the filing.

Upon agreement between a landowner and the department for the purchase of the easement and finalization of the sale, the county register of deeds shall record the easement or right of way. If negotiations fail, the requirements for condemnation, as set forth in §§ [31-19-2](#) to [31-19-19](#), inclusive, apply.

## Kroll, Kari

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**From:** Darrel Smith  
**Sent:** Friday, March 20, 2026 2:35 PM  
**To:** Kroll, Kari  
**Subject:** [EXT] Legislative testimony and DOT Meeting

Dear Speaker Hansen,

Recently the SD DOT worked to kill HB.1295 in judicial committee and what they said in committee was not what they said to me in their office afterwards.

The DOT came to my 80 year old father with a 1-pg highway repair easement, with the word "alter" included; later the DOT claimed that one word gave it the right to 18,143 cubic yards or 3.6 million gallons of dirt. (If you lined that many milk jugs up, it would stretch from Pierre to Denver Co.)

Here is a transcription of what was said in committee:

Time code 1:53:30.

SDDOT Secretary Joel Jundt (SEC) said: "**They [the Smith family] are being compensated through the contractor, not through the department.** Well, in about way, **we will pay (note the future verb tense) the contractor for that material and the contractor pays the landowner.**" (emphasis added)

Representative John Hughes (REP.): "And that will be in addition to the \$5,910?"

SEC: "Mr. Chair? That's correct."

REP: "Okay, do you know what that amount is?"

SEC: "I believe he [the contractor] had looked at \$4 a yard. I'm thinking that's in the 18 to 20,000 yard range, so multiply that times four and you've got an additional compensation on top of that."

REP: "So, Mr. Chair? So that I'm understanding here then, the contractor will provide an additional payment to the Smiths of approximately \$72,000?"

SEC: "Mr. Chair? Correct."

REP: "In addition to the \$5,910 that was paid for the easement?"

SEC: "Mr. Chair? By the department."

REP: "Okay."

SEC: "And Mr. Chair, we also have to pay the contractor to physically do the work."

At the conclusion of his time at the mic, the Secretary stated, "and I will commit to that."

This commitment on behalf of the Secretary was welcome news because before this point, the DOT was refusing to pay us for our dirt.

*However, the DOT Secretary's commitment lasted only until the next conversation, barely four hours later.*

After this hearing, I asked for a meeting with the DOT Secretary at 4 PM yesterday (2/18/26) to follow up on that promised payment. However, he point-blank told me **“That material, that you are talking about, that you want to be paid for, is not something that we would pay anybody for, in any part of the state,”** referring to the 18,143 cubic yards.

To understand this full contradiction, understand that there are two categories of dirt to be used in this project. The first is 18,143 cubic yards of our dirt that the DOT laid claim to with the word "alter." The second is an estimated additional 19,000 cubic yards that the contractor is supposed to buy from somewhere and use for the project (could be from our family or elsewhere). In the hearing, I did not discuss the 19,000 cubic yards because this is contractor furnished borrow and it is a future, voluntary, and private transaction that was not a part of our contract with the DOT). But these two categories are something the DOT used and manipulated.

Here is what happened:

At the start of my 4 o'clock meeting with the DOT yesterday, I told the Secretary that the main reason I had asked to see him was "to follow up on the \$72,000 that you talked about in the meeting" and he ducked the question and instead asked to start at the beginning. He pulled out cross section maps of the 18,143 cubic yards. I let him redescribe the project on our land for about six minutes before he admitted:

**“We did not pay you any dollars for that material** [referring to the 18,143 discussed in the committee]. He continued, **“Nor will you get paid any of that (referring to the \$72,000),** unless the contractor physically uses that material [now referring to new 19,000 cubic yards] to put into this slide.”

I responded, “That was not the impression that you gave the legislators.”

And he responded “Well...”

“You gave the legislators the impression that I had already received the \$72,000 and I was sitting there—really—holding my hand out wanting an additional amount of money.”

He responded, “ Well. (pause). Well. (pause). If the contractor uses that [additional 19,000], you will get paid that, that dollar amount ... so **it’s an option.**” And I pointed to the maps of the 18,143 to clarify which dirt: “If the contractor uses this?”

“No.” He corrected, the additional “contractor furnished barrow,” which is referring to the additional 19,000 that was not explained or discussed during the hearing. Nor is it in the contract I presented to the legislators. However, the contractor has estimated that he might only need, and pay for a fraction of that \$72,000, dropping that down to \$1-4,000 possibly.

Then the Secretary left hanging “So if he [the contractor] decides not to use it [the 19,000] and go somewhere else...” he trailed off and shrugged, implying that our family would not be paid a single dollar of that \$72,000, which he promised to you, and to me, and to everyone in the hearing yesterday.

I responded, reminding the Secretary: “One of the concerns was, is what the bill was talking (about) was not restricting the contractors, it was making changes with the Department of Transportation, so when you talked about this \$72,000 that we are going to get paid the conversation was regarding the materials that you guys are using ... so, **if you want to call the contractor and tell him that you’d talked to the legislators and that you’d talked about us getting that amount, that’s fine. But I want to follow through, that what was presented to the legislators, happens.**”

His direct response to me was the following: “**Well, again. (pause) I’ve. (pause) I did. (pause) We’ve talked about it and, and a couple of legislators I, I need to go back in (pause). But for this area [pointing to the 18,143 cubic yards] we feel we adequately provided (note the past verb tense) you compensation for the work that we are going to do to that. And that material that you are talking about, that you want to be paid for, is not something that we would pay anybody for, in any part of the state.**”

*This is exactly why we brought HB 1295 to the legislature, so that private property owners will be paid for their resources when the DOT has the habit and expectation of not paying for what they use for their construction projects!*

To summarize, in the public hearing, the Secretary said, “we will pay” and confirmed — repeatedly — that approximately \$72,000 would be provided for fill material while discussing the 18,143 in addition to the \$5,910 easement payment already received. He even concluded, “and I will commit to that.” Four hours later, in his conference room. that commitment disappeared and the position became that “that material... is not something that we would pay anybody for, in any part of the state.”

What happened here is not a misunderstanding. It appears to be a direct contradiction. Those two statements cannot both be true. While there is a chance that the DOT could fulfill their promise, I believe it won't happen without significant pressure.

The DOT publicly made a promise to you and the committee that our family would be paid approximately \$72,000 while discussing the 18,143 cubic yards. This was not presented as a "option" or a possibility, it was presented that it “will” happen with the commitment to see it through in their momentary enthusiasm to kill HB 1295. Then just hours later the Secretary delivered a strong dismissal to me.

**I ask you to follow up and hold the DOT accountable both in conversation and in our laws, to ensure that the payment he publicly promised, in his official role as DOT Secretary before the legislature, is actually made to my family.**

There is nothing in the South Dakota law 31-19-1, that protects landowners in any way from the DOT lying about what they intend to do with an easement. And I am deeply grateful for Rep. Hunt bringing our bill and seeking to protect private property, even if it was not successful, it exposed the double-speak coming out of the DOT.

Sincerely,

Amber Haskew