

Minutes of the
Board of Minerals and Environment
Telephone Conference Call Meeting

Matthew Environmental Education and Training Center
523 East Capitol Avenue
Pierre, South Dakota

April 16, 2015
10:00 a.m. CT

CALL TO ORDER AND ROLL CALL: The meeting was called to order by Chairman Rex Hagg. The roll was called and a quorum was present.

BOARD MEMBERS PARTICIPATING: Rex Hagg, Linda Hilde, Dennis Landguth, Glenn Blumhardt, Pete Bullene, Doyle Karpen, Gregg Greenfield, Daryl Englund, and Bob Morris.

BOARD MEMBERS ABSENT: None.

OTHERS PRESENT: Bob Townsend, Mike Cepak, Mike Erickson, Tom Cline, Brett Graves, Patty McQuay, and Mike Lees, DENR Minerals and Mining Program, Mike Mehlhaff, School and Public Lands.

APPROVAL OF MINUTES FROM FEBRUARY 19, 2015, MEETING: Motion by Karpen, seconded by Englund, to approve the minutes from the February 19, 2015, Board of Minerals and Environment meeting. A roll call vote was taken, and the motion carried unanimously.

MINING ISSUES

Consent Calendar: Prior to the meeting the board received a table listing the department recommendations for transfers of liability and releases of surety, transfers of liability, and releases of liability (see attachment).

Tom Cline answered questions from the board regarding the consent calendar.

Motion by Morris, seconded by Blumhardt, to accept the department recommendations for transfers of liability and releases of surety and transfers of liability as shown on pages 1 and 2 of the consent calendar. A roll call vote was taken, and the motion carried unanimously.

Motion by Landguth, seconded by Hilde, to accept the department recommendation for release of liability as shown on page 3 of the consent calendar. A roll call vote was taken, and the motion carried unanimously.

Request for Approval to Authorize Expenditure from the Special Reclamation Fund: Mike Erickson presented the department's request for approval to authorize expenditure from the

Special Reclamation Fund for Leola Township, South Shore, SD, Mine License 86-330 and James Olson, Watertown, SD, Mine License 83-120.

Mr. Erickson reported that SDCL 45-6 governs the mining of sand, gravel, rock to be crushed and used in construction, pegmatite minerals, or limestone, iron ore, sand, gypsum, shale, pozzolan, or other materials used in the process of making cement or lime.

Under SDCL 45-6 operators are required to post a bond in the amount of \$500 per acre of affected land. Operators may post a \$20,000 statewide bond in lieu of the required surety. Units of state government are exempt from fees and bonding requirement.

SDCL 45-6 was enacted in 1983. Since that time, 1,008 operators have been licensed and there are currently 523 active licenses. Those operators have licensed 4,635 sites. Currently, there are 1,680 active mine sites in the State of South Dakota. Since 1983, there have been 20 surety forfeitures involving 44 mine sites.

The Special Reclamation Fund was established in 1971. The Board of Minerals and Environment was given authority to use the fund to conduct reclamation. As of December 31, 2014, the balance of the Special Reclamation Fund was approximately \$10,730. Of this amount, \$6,230 is committed to other reclamation projects.

Mr. Erickson noted that the department holds the bond for the reclamation of each specific site. In the past, the department has used some of the Special Reclamation Fund to reclaim sites, but there are not enough available funds to allow total reclamation of all sites.

The department considers the following factors to determine what to reclaim: potential future mining, cost considerations, landowner's preference, past and potential natural reclamation, and environmental concerns, for example, the distance to a water body.

Mr. Erickson noted that the department is requesting authorization for the remaining \$4,500 to reclaim two additional sites; \$2,500 for the James Olson site and \$2,000 for the Leola Township site. If approved by the board, the balance in the Special Reclamation will be zero.

Mr. Erickson reported that department staff contacted the landowners and arranged on-site meetings. Staff identified what portions of the sites were to be reclaimed and prepared site-specific work plans. Contractors have been selected for each site and contracts will be prepared. The department intends to complete the reclamation project during this construction season.

Staff met with the contractors of the sites to identify what is expected under each contract. Staff will inspect the reclamation work upon completion prior to payment. After payment has been made, the Special Reclamation Fund will be closed.

Tom Cline presented site-specific information and photographs of the two gravel sites.

Mr. Erickson, Mr. Cline, and Mr. Townsend answered questions from the board.

Motion by Morris, seconded by Bullene, to authorize expenditure of \$2,000 from the Special Reclamation Fund for Leola Township, South Shore, SD, Mine License 86-330, one site in ~~Codington~~ Codington County; and to authorize expenditure of \$2,500 from the Special Reclamation Fund for James Olson, Watertown, SD, Mine License 83-120, one site in Grant County. A roll call vote was taken, and the motion carried unanimously.

UPDATE ON OIL & GAS CASE NO. 2-2015. QUARTZ OPERATIONS SURETY BOND: 2015 PARTIAL DISBURSEMENT REQUEST: Chairman Hagg, who served as hearing chairman in this matter, stated that a prehearing conference regarding this matter was held on April 9, 2015.

The matter involved Woodford Construction Company's request that a portion of Quartz Operations oil well plugging and performance bond be released in response to a Writ of Execution in favor of Woodford by virtue of a judgement entry against Quartz. The intervenor, Richard Davis, also had a judgement against Quartz.

During the prehearing conference, hearing chairman Hagg granted, without prejudice, DENR's motion to dismiss the case as a matter of law based on SDCL 34A-10-2.2 and 34A-10-2.3.

Findings of Fact, Conclusions of Law, and an Order will be prepared and presented to the Board of Minerals and Environment for final consideration at the May 21, 2015, meeting.

NEXT MEETING: The next board meeting is scheduled for May 21, 2015, at 10:00 a.m. Central Time in the Matthew Training Center, Foss Building, Pierre.

ADJOURNMENT: Motion by Blumhardt, seconded by Hilde, that the meeting be adjourned. Motion carried unanimously.

The meeting was digitally recorded and a copy of the recording may be obtained by contacting the Department of Environment and Natural Resources, 523 East Capitol Avenue, Pierre, SD 57501; telephone number 605-773-3886. The recording is also available on the DENR website at <http://denr.sd.gov/boards/schedule.aspx>.

Approved this 21st day of May, 2015.

Linda Hilde 5-21-15
Secretary Date

Daryl Englund 5-21-15
Witness Date

South Dakota Board of Minerals & Environment

Consent Calendar

April 16, 2015

<u>License/Permit Holder</u>	<u>License/Permit</u>	<u>Site No.</u>	<u>Surety Amount</u>	<u>Surety No.</u>	<u>Surety Company/Bank</u>	<u>DENR Recommendation</u>
<u>Transfers of Liability & Releases of Surety:</u>						
Don Hofland Altamont, SD	02-746		\$1,500	26570	Deuel County National Bank, Clear Lake	Transfer liability and release \$1,500.
		746001	S1/2 NW1/4 & N1/2 SW1/4 Section 22; T116N-R49W, Deuel County			
Transfer to:						
Taylor Hoffman Taunton, MN	15-981		\$1,000	60885	DNB National Bank, Clear Lake	
Missouri Valley Materials, Inc. Vermillion, SD	92-466		\$20,000	3056 35 78	Fidelity & Deposit Company of Maryland	Transfer liability and release \$20,000.
		466001	Section 12; T94N-R54W, Yankton County			
Transfer to:						
L.G. Everist Inc. & Subsidiaries Sioux Falls, SD	83-37		\$20,000	41 S17664 BCA	The Aetna Casualty & Surety Company	

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<u>Transfers of Liability:</u>						
Aggregate Construction, Inc. Minot, ND	89-382		\$20,000	5301306	Ohio Farmers Insurance Company	Transfer liability.
		382034	NW1/4 Section 16; T121N-R74W, Walworth County			
Transfer to:						
Mathew Arbach Hoven, SD	15-982		\$8,000	300016401	Plains Commerce Bank, Hoven	
			\$4,000	300016402	Plains Commerce Bank, Hoven	
Higman Sand & Gravel, Inc. Akron, IA	83-213		\$20,000	975 7820	Fidelity & Deposit Company of Maryland	Transfer liability.
		213001	NW1/4 Section 2; T95N-R48W, Union County			
		213002	E1/2 SW1/4 & W1/2 SE1/4 Section 5; T93N-R50W, Union County			
		213006	S1/2 SE1/4 Section 21 & NW1/4 NE1/4 Section 28; T95N-R48W, Union County			
Transfer to:						
L.G. Everist Inc. & Subsidiaries Sioux Falls, SD	83-37		\$20,000	41 S17664 BCA	The Aetna Casualty & Surety Company	

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<u>Releases of Liability:</u>						
DOT – Pierre Region Pierre, SD	83-10		EXEMPT	NA	NA	Release liability.
		10045	SE1/4 Section 5; T19N-R30E, Corson County			
		10125	S1/2 NW1/4 SE1/4 & N1/2 SW1/4 SE1/4 Section 22; T1N-R20E, Haakon County			
		10295	NE1/4, NE1/4 NE1/4 NW1/4 Section 8; T19N-R30E, Corson County			

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<u>Request for Approval to Authorize Expenditure From the Special Reclamation Fund:</u>						
Leola Township South Shore, SD	86-330		EXEMPT	NA	NA	Authorize expenditure of \$2,000 from the Special Reclamation Fund.
		330001	SE1/4 NW1/4 Section 1; T119N-R51W, Codington County			
James Olson Watertown, SD	83-120		NA	NA	NA	Authorize expenditure of \$2,500 from the Special Reclamation Fund.
		120019	SE1/4 NE1/4 Section 5; T118N-R50W, Grant County			