



**Board of Minerals
and Environment**

523 East Capitol Avenue
Pierre, South Dakota 57501-3182
(605)773-3151 Fax: (605)773-4068

AGENDA

Live audio of the meeting can be heard at <http://www.sd.net/mtc>

Board of Minerals and Environment
Matthew Environmental Education and Training Center
523 East Capitol Avenue
Pierre, South Dakota

May 17, 2018
10:00 a.m. Central Time

**Scheduled times are estimates only. Agenda items may
be delayed due to prior scheduled items.**

10:00 a.m. Call to order and roll call

Approval of minutes from April 19, 2018, meeting

Mining issues

Consent Calendar – Tom Cline

Financial assurance increase for Wharf Resources (USA), Inc. – Eric Holm

Transfer of Large Scale Mine Permit 467 from Pacer Corporation to Pacer Minerals, LLC – Eric Holm

Update on Notice of Violation for Exploration Notice of Intent, EXNI-419, VMC, LLC – Roberta Hudson

10:15 a.m. Oral Mining Reports

LAC Minerals 10:15 – 10:30

Homestake Mining Company 10:30 – 10:45

Wharf Resources 10:45 – 11:00

VMC, LLC 11:00 – 11:05

Gilt Edge Superfund Site 11:05 – 11:35

11:35 a.m. DENR Oil and Gas Update – Brian Walsh

CERCLA 108(b) financial assurance rules briefing– Eric Holm

Draft Volkswagen Beneficiary Mitigation Plan – Barb Regynski
Information on the Volkswagen Settlement - South Dakota Mitigation Trust is located at <http://denr.sd.gov/des/aq/aaVW.aspx>

Discussion on HB 1172, An Act to revise certain provisions regarding meetings of certain public bodies – Charles McGuigan

Next meeting

Adjourn

Notice is given to individuals with disabilities that this meeting is being held in a physically accessible place. Please notify the Department of Environment and Natural Resources by calling (605) 773-4216 at least 48 hours before the meeting if you have a disability for which special arrangements must be made.

Board members are reminded that effective July 1, 2016, members are subject to SDCL 3-23-1 to 3-23-5 (Disclosure Laws) which address the disclosure of any conflicts of interest a member may have regarding contracts with the State of South Dakota. Board members should report any potential conflicts to the board and seek a waiver where appropriate.

The audio recording for this meeting is available on the South Dakota Boards and Commissions Portal at <http://boardsandcommissions.sd.gov/Meetings.aspx?BoardID=67>

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 19, 2018
10:00 a.m. CDT

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

Chairman Hagg announced that the meeting was streaming live on SD.net, a service of South Dakota Public Broadcasting.

BOARD MEMBERS PRESENT: Rex Hagg, Gregg Greenfield, Glenn Blumhardt, Dennis Landguth, Daryl Englund, John Scheetz, Doyle Karpen, Pete Bullene, and Bob Morris.

BOARD MEMBER ABSENT: None.

OTHERS PRESENT: Eric Holm, Tom Cline, Mike Cepak, and Brett Graves.

APPROVAL OF MINUTES FROM FEBRUARY 15, 2018, MEETING: Chairman Hagg asked the board members if they would like the minutes to reflect who asked questions and what the questions were. Bob Morris said the important thing is that a question was asked and answered, rather than who actually asked the question.

There was consensus among the board members to maintain the status quo.

Chairman Hagg noted that the questions are in the audio recordings of each meeting.

Motion by Karpen, seconded by Blumhardt, to approve the minutes from the February 15, 2018, Board of Minerals and Environment meeting. A roll call vote was taken, and the motion carried unanimously.

MINING ISSUES

Consent Calendar: Tom Cline presented the consent calendar, which was sent to the board prior to the meeting. The consent calendar is a table listing the department recommendations for release of liability and surety, transfers of liability, and release of liability (see attachment).

Responding to a question from Mr. Morris, Mr. Cline stated that county highway departments are exempt from posting a surety bond, but they are required to follow all of the other the provisions of SDCL 45-6, just like the private operators.

***South Dakota Board of Minerals & Environment
Consent Calendar***

April 19, 2018

<u>License Holder</u>	<u>License No.</u>	<u>Site No.</u>	<u>Surety Amount</u>	<u>Surety No.</u>	<u>Surety Company or Bank</u>	<u>DENR Recommendation</u>
<u>Release of Liability and Surety:</u>						
LPN Holdings LLC Sturgis, SD	87-356	356003	\$10,000	8101002584	First Interstate Bank, Sturgis	Release liability and \$10,000.
					W1/2 SW1/4, N1/2 NE1/4, E1/2 NW1/4, SW1/4 NW1/4 Section 8; T5N-R5E, Meade County	
<u>Transfers of Liability:</u>						
Asphalt Paving & Materials Company Huron, SD	83-159	159023	\$20,000	55-96750	United Fire & Casualty Company	Transfer liability.
					Section 16; T106N-R68W, Buffalo County	
Transfer to:						
Fisher Sand & Gravel Company Dickinson, ND	83-54		\$20,000	190-002-030	Liberty Mutual Insurance Company	

***South Dakota Board of Minerals & Environment
Consent Calendar***

April 19, 2018

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<u>Transfers of Liability:</u>						
Bob Bak Construction Pierre, SD	83-61		\$3,000	4981	American State Bank, Pierre	Transfer liability.
			\$3,500	7410	American State Bank, Pierre	
			\$1,000	64334	First National Bank, Pierre	
			\$500	65266	First National Bank, Pierre	
			\$500	0621959600	Wells Fargo Bank, White River	
			\$500	7305	American State Bank, Pierre	
			\$500	13751	American State Bank, Pierre	
			\$500	13850	American State Bank, Pierre	
			\$4,000	13871	American State Bank, Pierre	
			\$6,000	532390	American Bank & Trust, Pierre	
		61030	SW1/4 Section 22; T9N-R12E, Meade County			
Transfer to: Meade County Highway Department Sturgis, SD	83-113		EXEMPT	NA	NA	

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Consent Calendar***

April 19, 2018

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<u>Transfers of Liability:</u>						
Fisher Sand & Gravel Company Dickinson, ND	83-54		\$20,000	190-002-030	Liberty Mutual Insurance Company	Transfer liability.
		54023	W1/2 Section 15; T110N-R77W, Hughes County			
Transfer to:						
Hughes County Highway Department Pierre, SD	83-31		EXEMPT	NA	NA	
<u>Release of Liability:</u>						
Dawson Construction Inc. Howard, SD	83-21		\$20,000	RC-0024	Sun Surety Insurance Company	Release liability.
		21031	NE1/4 Section 10; T105N-R57W, Miner County			

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Consent Calendar***

						<i>May 17, 2018</i>
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<u>Release of Surety:</u>						
Victor Martinmaas Orient, SD	05-362		\$1,000	500556	American Bank & Trust, Miller	Release \$1,000.
<u>Transfer of Liability and Release of Surety:</u>						
Duane Emmett Brookings, SD	02-741		\$1,000 \$3,000 \$2,500 \$1,000	56302 9536 9682 9822	First National Bank, Pierre Richland State Bank, Bruce Richland State Bank, Bruce Richland State Bank, Bruce	Transfer liability. Release \$7,500.
		741001	SW1/4 Section 8; T111N-R47W, Brookings County			
Transfer to:						
Sterzinger Crushing Inc. Taunton, MN	15-997		\$4,500 \$7,000	13984 14044	First Security Bank, Hendricks, MN	
<u>Transfer of Liability:</u>						
James T. Goetz Estate Yankton, SD	83-187		\$20,000	2116504726	First National Bank, Yankton	Transfer liability.
		187001	SE1/4 & SE1/4 SW1/4 Section 36; T98N-R63W, Douglas County			
Transfer to:						
Grosz Sand & Gravel LLC Delmont, SD	18-1032		\$20,000	RC-0029	Sun Surety Insurance Company	

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Consent Calendar***

						<i>May 17, 2018</i>
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<u>Release of Liability:</u>						
Leola Township South Shore, SD	86-330		EXEMPT	NA	NA	Release liability.
		330001	SE1/4 NW1/4 Section 1; T119N-R51W, Codington County			

South Dakota Board of Minerals & Environment

May 17, 2018

<u>Permit Holder</u>	<u>Permit No.</u>	<u>Surety Amount</u>	<u>Surety No.</u>	<u>Surety Company or Bank</u>	<u>DENR Recommendation</u>
<u>Acceptance of Financial Assurance Increase for Wharf Resources (USA), Inc.:</u>					
Wharf Resources (USA), Inc. Lead, SD	356, 464, & 476	\$649,700	SU27832	Aspen American Insurance Company	Accept rider to Bond No. SU27832, Aspen American Insurance Company, increasing bond by \$19,500 to the new amount of \$669,200.
<u>Transfer of Large Scale Mine Permit 467:</u>					
Pacer Corporation Custer, SD	467	\$348,000	ILOC No. 68127108	Bank of America	Transfer Permit 467. Transfer Irrevocable Letter of Credit No. 68127108 to Pacer Minerals LLC and accept Amendment No. 1 changing the name on Irrevocable Letter of Credit No. 68127108 to Pacer Minerals LLC.
		Legal:	SW1/4 & S1/2 NW1/4 Section 28; T2S-R4E; Custer County		
Transfer to:					
Pacer Minerals LLC Custer, SD					

AN ACT

ENTITLED, An Act to revise certain provisions regarding meetings of certain public bodies.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 1-25-1 be amended to read:

1-25-1. The official meetings of the state, its political subdivisions, and any public body of the state or its political subdivisions are open to the public unless a specific law is cited by the state, the political subdivision, or the public body to close the official meeting to the public. For the purposes of this section, a political subdivision or a public body of a political subdivision means any association, authority, board, commission, committee, council, task force, school district, county, city, town, township, or other agency of the state that is created or appointed by statute, ordinance, or resolution and is vested with the authority to exercise any sovereign power derived from state law. For the purposes of this section, an official meeting is any meeting of a quorum of a public body at which official business of that public body is discussed or decided, or public policy is formulated, whether in person or by means of teleconference.

It is not an official meeting of one political subdivision or public body if its members provide information or attend the official meeting of another political subdivision or public body for which the notice requirements of § 1-25-1.1 have been met.

Any official meeting may be conducted by teleconference as defined in § 1-25-1.2. A teleconference may be used to conduct a hearing or take final disposition regarding an administrative rule pursuant to § 1-26-4. A member is deemed present if the member answers present to the roll call conducted by teleconference for the purpose of determining a quorum. Each vote at an official meeting held by teleconference shall be taken by roll call.

If the state, a political subdivision, or a public body conducts an official meeting by teleconference, the state, the political subdivision, or public body shall provide one or more places

at which the public may listen to and participate in the teleconference meeting. For any official meeting held by teleconference, which has less than a quorum of the members of the public body participating in the meeting who are present at the location open to the public, arrangements shall be provided for the public to listen to the meeting via telephone or internet. The requirement to provide one or more places for the public to listen to the teleconference does not apply to an executive or closed meeting.

The chair of the public body shall reserve at every official meeting by the public body a period for public comment, limited at the chair's discretion, but not so limited as to provide for no public comment.

If a quorum of township supervisors, road district trustees, or trustees for a municipality of the third class meet solely for purposes of implementing previously publicly-adopted policy, carrying out ministerial functions of that township, district, or municipality, or undertaking a factual investigation of conditions related to public safety, the meeting is not subject to the provisions of this chapter.

A violation of this section is a Class 2 misdemeanor.