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Minutes of the
Board of Minerals and Environment meeting
Aberdeen Energy LLC
13435 370th Avenue
Mina, SD

June 16, 2016
10:00 a.m. Central Time

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

Chairman Hagg appointed Bob Morris as secretary pro tem.

BOARD MEMBERS PRESENT: Rex Hagg, Glenn Blumhardt, Dennis Landguth, Doyle Karpen, Pete Bullene, and Bob Morris.

BOARD MEMBER ABSENT: Gregg Greenfield, Daryl Englund, and Linda Hilde.

OTHERS PRESENT: See attached attendance sheet.

APPROVAL OF MINUTES FROM MAY 19, 2016, MEETING: Motion by Morris, seconded by Bullene, to approve the minutes of the May 19, 2016, 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 releases of liability, releases of liability and surety, and transfer of liability (see attachment).

Tom Cline, DENR Minerals and Mining Program, discussed the release of liability for the site that C&W Enterprises, Inc. licensed in Meade County and the transfer of liability from C&W Enterprises, Inc. to Jason Pekarek for the site in Hyde County.

In 2007, C&W Enterprises, Inc. forfeited its surety for nine sites that were not reclaimed at that time. Mr. Cline noted that if the board approves the release of liability for the Meade County site and the transfer of liability for the Hyde County site, six sites will remain unreclaimed.

Mr. Cline stated that a different operator has taken over mining of the site in Meade County, and the landowner has taken over reclamation of the Hyde County site.

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Staff recommended releasing liability for the site in Meade County and transferring liability for the site in Hyde County. No surety is involved because C&W Enterprises, Inc. has already forfeited the \$20,000 surety to the Board of Minerals and Environment. Mr. Cline noted that only these two sites for C&W Enterprises, Inc. are being recommended for release of liability and transfer of liability. The other six sites are still not reclaimed.

Mr. Cline answered questions from the board.

Motion by Morris, seconded by Landguth, to accept the department recommendations for the releases of liability and surety, releases of liability, and transfer of liability, as listed on the consent calendar.

Chairman Hagg expressed concern as to whether the \$500 surety bond is adequate for reclamation of the site being transferred to Jason Pekarek.

Mr. Cline noted that the site is less than one acre. SDCL 45-6 requires a surety amount of \$500 per acre up to the \$20,000 statewide maximum.

Responding to questions from Mr. Morris, Bob Townsend stated that the \$500 per acre up to a maximum of \$20,000 requirement has been in place since 1983, when the sand and gravel laws took effect. There have been several legislative discussions about increasing the bond amount for sand and gravel, but none of them resulted in a change. One of the concerns has been that increasing the per acre bond amount may put someone out of business. Another concern is the risk issue. There are only two areas in state statute in regards to oil and gas or mining where there is 100 percent bonding; in large scale mining and in uranium exploration. Those are the two areas where, from an environmental standpoint, you see the most risk. For a gravel pit, the risk is if a gravel pit is left open, basically it is the landowner that suffers.

A roll call vote was taken, and the motion carried unanimously.

UPDATE ON THE QUARTZ NORTHERN POINTS WELL: At the last meeting, Mike Lees provided an update with regard to some of the background and history of the Quartz well. At that time, the board requested that the Attorney General's Office look into options the board has regarding the matter and report back to them at the June 16 board meeting.

Assistant Attorney General Ellie Bailey briefed the board on the statutory authority in terms of why certain things were required from the outset and what options the board has moving forward and the basis in statute of those various options.

Following her report, Ms. Bailey and Mr. Lees answered questions from the board.

EXECUTIVE SESSION: Motion by Karpen, seconded by Morris, to enter into executive session pursuant to SDCL 1-25-2 for the purpose of consulting with legal counsel about pending litigation. Motion carried unanimously.

The board went into executive session at 10:30 a.m. Chairman Hagg declared the board out of executive session at 11:15 a.m.

Following executive session, the board took the following action.

Motion by Karpen, seconded by Bullene, to direct the department to begin an investigation into Quartz Operations Northern Points well in accordance with SDCL 45-9-55.

Chairman Hagg asked if there is something that the department issues that deems Quartz in violation of the permit?

Chief Deputy Attorney General Charlie McGuigan stated that the appropriate action would be an official Notice of Violation issued by the Department of Environment and Natural Resources.

Bob Townsend stated that the department has never issued a Notice of Violation to an oil and gas company. Mr. Townsend said there is no specific statutory authority for the department to do that under SDCL 45-9, although SDCL 34A-10 probably gives the department the sufficient statutory authority to issue a Notice of Violation.

Chairman Hagg stated that the application was heard and approved by the board subject to the conditions. According to the information presented to the board, Quartz violated the conditions by not properly plugging the well, therefore they are in violation of the permit.

Mr. Townsend stated that the department does not believe there are any assets or a responsible individual, other than Mr. Somsen, who is unresponsive to the matter. He stated that the department has been delegated authority over drilling permits, but in this particular case, the board has asserted jurisdiction.

Chairman Hagg stated that the Secretary of State has not found the company defunct yet, therefore, the company is an existing LLC.

Mr. McGuigan stated that issuing the Notice of Violation is the trigger to start the process, and at the board's direction and pursuant to Mr. Karpen's motion, the board is basically delegating the board's authority to the department.

Amended motion by Morris, seconded by Landguth, that the department issue a Notice of Violation to Quartz Operations, LLC.

Substitute motion by Morris, seconded by Blumhardt, that the department provide a formal written Notice of Violation to Quartz Operations, LLC, for failure to plug the well in accordance with the permit conditions and requesting a response from Quartz Operations, LLC, to the department within the minimum statutory notice requirements. A roll call vote was taken, and the motion carried unanimously.

Chairman Hagg asked that the department provide an update on this matter at the August board meeting.

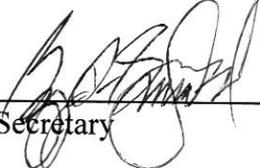
NEXT MEETING: The next meeting is August 18, 2016, in Pierre.

Mr. McGuigan provided a summary of the new conflict of interest legislation (disclosure law) for certain boards and commissions. The legislation was approved by the 2016 legislature and becomes effective July 1, 2016. He distributed copies of the statute and the guidance documents regarding the new law, and he answered questions from the board.

Mr. McGuigan requested that the board review the information and discuss the new law more in depth at the next board meeting.

TOUR ABERDEEN ENERGY LLC ETHANOL PRODUCTION FACILITY: The board members toured the ethanol production facility. Pete Bullene did not participate in the tour.

ADJOURN: Motion by Blumhardt, seconded by Bullene, that the meeting be adjourned. Motion carried unanimously.



Secretary

8/18/16
Date



Witness

8/18/16
Date

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

June 16, 2016

<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>						
Dallas I. Hanson Construction Inc. Milbank, SD	06-829		\$2,500	7060604260	Minnwest Bank Ortonville, Ortonville, MN	Release liability and \$2,500.
		829002	NW1/4 Section 20; T121N-R47W, Grant County			
Richard D. Hill dba Big Mountain Gravel Pringle, SD	87-341		\$500	12327	First Interstate Bank, Custer	Release liability and \$500
		341001	SW1/4 Section 25 & SE1/4 Section 26; T8S-R4E, Fall River County			
<u>Release of Liability:</u>						
C & W Enterprises, Inc. Harrisburg, SD	98-671		\$-0-	NA	NA	Release liability.
		671003	East of Railroad Right of Way Section 14 & the portion East of I-90 NE1/4 Section 23; T3N-R6E, Meade County			

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<u>Release of Liability:</u>						
Mineral Technology Corporation Rapid City, SD	90-403		\$-0-	NA	NA	Release liability.
		403005	SW1/4 Section 25 & SE1/4 Section 26; T2S-R6E, Custer County			
<u>Transfer of Liability:</u>						
C & W Enterprises, Inc. Harrisburg, SD	98-671		\$-0-	NA	NA	Transfer liability.
		671011	N1/2 NE1/4 Section 16; T110N-R71W, Hyde County			
Transfer to:						
Jason Pekarek Highmore, SD	16-1004		\$500	503864	American Bank & Trust, Miller	