

The board packet and the audio recording for this meeting are available on the SD 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
523 East Capitol Avenue
Pierre, South Dakota

January 16, 2025
10:00 a.m. Central Time

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

The meeting was streaming live on SD.net, a service of South Dakota Public Broadcasting.

Chairman Blumhardt welcomed Rhett Miller, who was appointed by Governor Noem to fill the vacancy left by Rex Hagg.

BOARD MEMBERS PRESENT: Glenn Blumhardt, Bob Ewing, Gregg Greenfield, Jessica Gruenwald, Gary Haag, Doyle Karpen, Rhett Miller, Bob Morris, and Laurie Schultz.

BOARD MEMBERS ABSENT: None.

OTHERS PRESENT: Mike Lees, Roberta Hudson, Eric Holm, Bret Graves, Tom Cline, and Phil Nesbitt, DANR Minerals, Mining, and Superfund Program; Kyrik Rombough and Barb Regynski, DANR Air Quality Program.

APPROVAL OF MINUTES FROM NOVEMBER 21, 2024, MEETING: Motion by Morris, seconded by Karpen, to approve the minutes from the November 21, 2024, Board of Minerals and Environment meeting. The motion carried unanimously.

MINING ISSUES CONSENT CALENDAR: A copy of the consent calendar, which is a table listing the department recommendations for transfer of liability, transfers of liability and surety releases, and releases of liability, was included in the board packet. (See attachment.)

Tom Cline was available to answer questions about the consent calendar.

Chairman Blumhardt asked if the surety amount for the transfer of liability and surety release from Darlene Nagel to Joel Sinclair is part of the new fee schedule. Mr. Cline answered yes. That amount reflects the required amount per acre for new operators.

Motion by Ewing, seconded by Gruenwald, to approve the consent calendar, as presented. A roll call vote was taken, and the motion carried unanimously.

ANNUAL UPDATE ON SOUTH DAKOTA’S VOLKSWAGEN BENEFICIARY MITIGATION PLAN: Barb Regynski, DANR Air Quality Program, provided an update on South Dakota’s Volkswagen Beneficiary Mitigation Plan.

In 2016, the Environmental Protection Agency (EPA) and the State of California filed a lawsuit against Volkswagen for installing a system in some of the diesel vehicles that cheated the emission controls and allowed vehicles to emit nitrogen oxide (NOx) pollution to exceed levels allowed under the Clean Air Act. As part of a court settlement Volkswagen agreed to fund an environmental mitigation Trust in the amount of approximately \$3,000,000,000 to be used to offset the excess pollution emitted by those noncompliant vehicles.

To receive the funds, the states needed to develop and submit a beneficiary mitigation plan to the Trust. DANR was designated by the Governor to be the lead agency in South Dakota to administer the state’s allocation, which was \$8,125,000. The Trust allowed the plan to use ten specific categories to offset the excess nitrogen oxide emissions.

1. Class 8 local freight trucks and port drayage trucks (eligible large trucks)
2. Class 4-8 school bus, shuttle bus, or transit bus (eligible buses)
3. Freight switchers
4. Ferries/tugs
5. Ocean going vessels (OGV) shorepower
6. Class 4-7 local freight trucks (medium trucks)
7. Airport ground support equipment
8. Forklifts and port cargo handling equipment
9. Light duty zero emission vehicle supply equipment
10. Diesel Emissions Reduction Act (DERA) options

The Board of Minerals and Environment approved the Volkswagen Beneficiary Mitigation Plan in August 2018. In March 2019, the Governor signed a bill giving spending authority for the Volkswagen Trust funds. In May 2021, the Board of Minerals and Environment approved revisions to the plan. Some of the categories were grouped together and instead of a set amount for each category, a percentage range was approved.

Ms. Regynski stated that at least 80 percent of the funds must be obligated by October 2027.

There are currently three rebate programs covered under the plan – a truck replacement rebate program, which is allotted 35 to 45 percent of the funds; a bus replacement rebate program, which is allotted 35 to 45 percent of the funds; and electric vehicle charging stations, which is 10 to 15 percent of the funds. There are also administrative costs which are allotted a maximum of 15 percent of the funds.

Trucks – Categories 1 and 6

The Volkswagen Truck Rebate Program provides rebates for replacing old diesel trucks with newer, cleaner trucks. The program is open to state and local governmental agencies.

There were two funding rounds per year open for applications in January and June. After the second round in 2024, all funds have been obligated. Remaining projects are expected to be completed by December 31, 2025.

Ms. Regynski stated that the department is not planning for another funding round in 2025.

Buses – Categories 2 and 10

DANR has been running the State Clean Diesel Grant Program, which provides rebates for replacing old diesel buses, with newer, cleaner buses, since 2009 so the Volkswagen funds are being used in conjunction with the other funds. Every year DANR receives DERA funds from EPA. The Volkswagen Category 10 funds can be used as match for the base EPA funds, and in doing that EPA also gives the program bonus funds, which are one half of the base funding the program received.

Rebate percentages have been 25 percent if the new bus is either a new, clean diesel bus or a gasoline bus, or 35 percent if the new bus meets the nitrogen oxide (NOx) emission requirement, such as a propane fueled bus. A 45 percent rebate is allowed for zero-emission busses, but no applications have been submitted.

Round 17 of the State Clean Diesel Grant Program opened in November 2024, and the agreements will be signed by February 2025. For this round applications were received for 29 busses for approximately \$1.1 million in rebates.

Round 18 will open in November 2025.

Electric Vehicle Charging Stations – Category 9

The maximum allowed by the Trust for this category is 15 percent. The rebates are for up to 80 percent per charging station and installation. There have been three rounds to date. During round one, seven sites were approved, but only one site was completed in Mitchell.

For round two, eight charging stations were selected for rebates, but only five were completed. Charging stations were installed in Vermillion, Pierre, Brookings, Murdo, and Spearfish.

For round three, five charging stations were selected; Yankton, Mobridge, Lemmon, Hot Springs, and Eagle Butte. These projects expected to be completed by October 2025.

At this time all funds for Category 9 have been obligated.

Ms. Regynski noted that one of the applicants contacted her indicating that they will likely withdraw the application. This is the same applicant that installed the Mitchell charging station, and they said from what they have learned and how much the charging station is being used, they will probably not be installing the charging station in Yankton.

Regarding usage of the charging stations that are finished, Ms. Regynski stated that in 2023 she received one report, which was for the Vermillion station, and it ranged from 43 to 76 charges per month. For the 2024 data, she received a report for the charging in Mitchell, which had between three and 19 charges per month. She also received a report from Pierre, which had zero to five charges per month.

More charging stations are slowly being added in the state. Since the update for 2023, fast chargers that received the Volkswagen rebates were installed in Pierre and Mitchell. There weren't any other Tesla stations added. Nine additional other fast charging stations were installed. Several of these were at car dealerships. Fourteen Level 2 charging stations were added since last year.

Ms. Regynski stated that she contacted the Department of Transportation (DOT) to see how that program is doing, since they are supposed to be receiving \$29 million for charging stations. DOT indicated that they intend publish the notice of available funding in the Spring of 2025.

Administrative Costs

Through November 2024, approximately \$275,000 has been expended, and approximately \$537,000 remains.

Funding Summary

Ms. Regynski stated that of the \$8,125,000 available, \$ 7,477,612 has been expended or obligated, which is 92 percent of the total funds. By the end of 2025, all of the agreements for Trust should be finished, all of the agreements for charging station should be finished, and the Round 17 busses rebates should be completed.

Staff does not intend to present any changes to the Volkswagen Beneficiary Mitigation Plan in 2025.

More information on the Volkswagen Beneficiary Mitigation Plan is available at <https://danr.sd.gov/Environment/AirQuality/VolkswagenTrust/VWEVCS.aspx>.

RELEASE OF RECLAMATION SURETY FOR BOYER SAND AND ROCK, MINE PERMIT 268 DUE TO CONVERSION OF LIMESTONE MINE PERMIT TO MINE LICENSE: Eric Holm reported that Senate Bill 111, which was approved during the 2024 legislative session and became effective on July 1, 2024, placed the mining of any use of limestone under the mine license statutes (SDCL 45-6-65). As a result, current mine permits issued for limestone uses other than construction aggregate, cement, or lime production need to be converted to a licensed mining operation.

Mr. Holm noted that at the October 2024 Board of Minerals and Environment meeting, mine permits issued to Pete Lien and Sons and Simon Contactors were converted to mine licenses. Boyer Sand and Rock of SD, Inc. is the last operator in the process of converting a mine permit to a licensed operation.

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Small Scale Mine Permit 268, located approximately 5.5 miles west of Wakonda, SD, is being converted to a mine license. Since Boyer Sand and Rock has a mine license, the process for the conversion of the mine permit to a mine license is similar to the publication and notification requirements of SDCL 45-6-68 and 45-6-69 in adding a site to a license. Instead of a Notice of Intent, the operator publishes a Notice of Conversion to License and Intent to Continue Operation. A copy of the notice is sent to DANR, Game, Fish, and Parks, the Archaeological Research Center, and the local conservation district. Mr. Holm stated that Boyer Sand and Rock published the notice in a newspaper local to the mine and submitted copies to the required review agencies.

All areas previously disturbed under the mine permit, including reclamation liability, will now be covered under the mine license and the \$20,000 statewide surety held under the mine license.

The department recommended the board release Certificate of Deposit No. 2897, Rivers Edge Bank, in the amount of \$2,500 for Scale Mine Permit 268.

In response to a question from Mr. Morris, Mr. Holm stated that Boyer Sand and Rock Inc has a \$20,000 statewide surety, but the surety requirement will increase on July 1, 2026, and on July 1, 2027, and again on July 1, 2029, according to the tiered bonding increase approved under the 2024 Senate Bill 111.

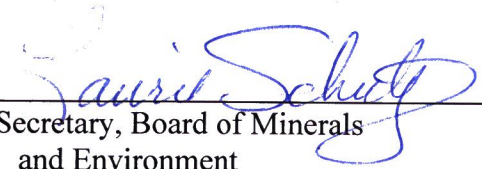
Motion by Karpen, seconded by Haag, to release Certificate of Deposit No. 2897, Rivers Edge Bank, in the amount of \$2,500 for Boyer Sand and Rock, Inc. A roll call vote was taken, and the motion carried unanimously.

PUBLIC COMMENT PERIOD IN ACCORDANCE WITH SDCL 1-25-1: There were no public comments.

NEXT MEETING: The next meeting is March 20, 2025.

Chairman Blumhardt stated that he is tentatively planning to hold the September 17-18, 2025, meeting in the Hills. Staff from the Minerals, Mining and Superfund Program will work on scheduling a tour for the board.

ADJOURN: Motion by Karpen, seconded by Greenfield, to adjourn the meeting. The motion carried unanimously.


Secretary, Board of Minerals
and Environment

3/21/25
Date

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

January 16, 2025

<u>License Holder</u>	<u>License No.</u>	<u>Site No.</u>	<u>Surety Amount</u>	<u>Surety Company or Bank</u>	<u>DANR Recommendation</u>
<u>Transfer of Liability:</u>					
Stanley Hanson Winner, SD	94-510		\$2,000	First National Bank – Pierre	Transfer liability.
		510002	SW1/4 Section 21: T95N-R78W, Tripp County		
Transfer to:					
Tripp County Highway Department – Winner, SD	83-89		Exempt	NA	
<u>Transfer of Liability and Surety Release:</u>					
Darlene Nagel Yankton, SD	07-842		\$10,000	Commercial State Bank – Wagner	Transfer Liability and \$10,000.
		842001	NE1/4 Section 1; T93N-R62W, Bon Homme County		
Transfer to:					
Joel Sinclair Spencer, NE	24-1147		\$57,750	Travelers Casualty and Surety Company of America	
<u>Release of Liability and Surety Release:</u>					
Aggregate Construction Inc. Minot, ND	89-382		\$20,000	Ohio Farmers Insurance Company \$20,000.	Release Liability and
		382023	SW1/4 NW1/4 Section 33; T4N-R6E, Meade County		

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January 16, 2025

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<u>Release of Liability and Surety Release:</u>					
James L Dean Hill City, SD	88-380		\$1,000	First National Bank – Pierre	Release Liability and \$1,000.
		380004	N1/2 NE1/4 Section 16; T2S-R6E, Pennington County		
		380005	NW1/4 Section 24; T2S-R4E, Pennington County		
Jared Gross Aberdeen, SD	23-1127		\$500	First Interstate Bank – Aberdeen	Release Liability and \$500.
		1127001	SE1/4 Section 33; T124N-R64W, Brown County		
Gefroh Sand and Gravel Amherst, SD	02-732		\$1,000	First National Bank – Pierre	Release Liability and \$1,000.
		732001	S1/2 Section 7; T127N-R56W, Marshall County		
Mark Heumiller Salem, SD	21-1099		\$1,000	First Dakota National Bank – Salem	Release Liability and \$1,000.
		1099001	N1/2 S1/2 Section 34; T104N-R54W, McCook County		

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Consent Calendar***

January 16, 2025

<u>License Holder</u>	<u>License No.</u>	<u>Site No.</u>	<u>Surety Amount</u>	<u>Surety Company or Bank</u>	<u>DANR Recommendation</u>
<u>Release of Liability:</u>					
Day County Highway Dept. Webster, SD	83-34		Exempt	NA	Release Liability.
		34022	SW1/4 SW1/4 Section 26; T120N-R59W, Day County		
Midstates Crushing and Recycle LLC Beresford, SD	10-906		\$20,000	Bankwest - Mitchell	Release Liability.
		906001	NW1/4, SW1/4, & SE1/4 Section 2; T121N-R59W Day County		
Morrs Inc Ft. Pierre, SD	83-2		\$20,000	United Fire and Casualty Company	Release Liability.
		2022	NW1/4, SW1/4, & SE1/4 Section 18; T114N-R74W Sully County		
Perkins County Highway Dept. Bison, SD	83-91		Exempt	NA	Release Liability.
		91026	SE1/4 Section 3; T17N-R14E, Perkins County		
		91027	SW1/4 Section 9; T17N-R10E, Perkins County		

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<u>Permit Holder</u>	<u>Permit No.</u>	<u>Surety Amount</u>	<u>Surety Company or Bank</u>	<u>DANR Recommendation</u>
<u>Release of Reclamation Surety for Boyer Sand and Rock, Inc.:</u>				
Boyer Sand and Rock, Inc. Hawarden, IA	268	\$2,500	Rivers Edge Bank, Marion, SD	Release Certificate of Deposit No. 2897, Rivers Edge Bank, in the amount of \$2,500 due to conversion to mine license.
NE1/4 Section 35; T95N-R54W, Yankton County				