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Minutes of the
Board of Minerals and Environment
Telephone Conference Call Meeting
523 East Capitol Avenue
Pierre, South Dakota

October 19, 2023
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.

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

Chairman Hagg welcomed new board members Laurie Schultz and Bob Ewing.

BOARD MEMBERS PRESENT: Rex Hagg, Glenn Blumhardt, Gregg Greenfield, Gary Haag, and Doyle Karpen participated via telephone conference call. Laurie Schultz and Bob Ewing participated in-person.

BOARD MEMBERS ABSENT: Jessica Peterson and Bob Morris.

OTHERS PRESENT: Mike Lees, Roberta Hudson, Eric Holm, and Bret Graves, DANR Minerals, Mining, and Superfund Program; Mark Tieszen and Jeff Burich, Homestake Mining Company; Jennifer Henson, Bentonite Performance Minerals LLC; Heath Byrd, SWCA Environmental Consultants; Matt Clark and Darci Haug, State Investment Council; and Samantha Keeran, Bureau of Land Management.

APPROVAL OF MINUTES FROM AUGUST 17, 2023, MEETING: Motion by Blumhardt, seconded by Karpen, to approve the minutes from the August 17, 2023, 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 copy of the consent calendar, which is a table listing the department recommendations for releases of liability and surety, transfer of liability and release of surety, transfer of liability, and releases of liability. (See attachment)

Bret Graves, Minerals, Mining, & Superfund Program, was available to answer questions. There were no questions from the board.

Motion by Karpen, seconded by Haag, to accept the department recommendations for releases of liability and surety, transfer of liability and release of surety, transfer of liability, and releases of liability. A roll call vote was taken, and the motion carried unanimously.

BENTONITE PERFORMANCE MINERALS LLC'S REQUEST FOR APPROVAL OF ITS SOCIOECONOMIC CONTRACTOR FOR A LARGE-SCALE BENTONITE MINE PERMIT APPLICATION PURSUANT TO SDCL 45-6B-33.1: Eric Holm reported that Bentonite Performance Minerals is requesting board approval of SWCA Environmental Consultants as its socioeconomic contractor. The company is applying for a large-scale mine permit for a bentonite mine located approximately seven miles northwest of Belle Fourche, SD.

Under the mining statutes, an applicant for a large-scale mine permit is required to do a socioeconomic impact study and include it in its mine permit application. The law requires the applicant to get board approval for the contractor to conduct the study.

As part of the decision-making process on a mine permit application, the board can consider the socioeconomic impacts of a mining operation. The board can deny a mine permit application if it finds the adverse socioeconomic impacts of the proposed mining operation outweigh the benefits of the operation.

A copy of SWCA's Statement of Qualifications was included in the packet that was sent to the board prior to the meeting.

Jennifer Henson from Bentonite Performance Minerals and Heath Byrd from SWCA Environmental Consultants were available to answer board questions.

Chairman Hagg asked Jennifer Henson if they have done prior socioeconomic studies in South Dakota. She said that socioeconomic studies had been conducted for Bentonite Performance Minerals' Permit 481 and Permit 482, the Purple and Killinger mines in 2014. These two permits are now in the reclamation phase.

There were no other questions from the board. Chairman Hagg requested board action.

Motion by Blumhardt, seconded by Haag, to approve SWCA Environmental Consultants as the socioeconomic contractor for Bentonite Performance Minerals, LLC. A roll call vote was taken, and the motion carried unanimously.

FIVE-YEAR UPDATE OF HOMESTAKE MINING COMPANY'S POST CLOSURE BOND FOR MINE PERMITS 332 AND 456: Board member Ewing, who is a Lawrence County commissioner, stated that Homestake recently gave a presentation to the county commission. Mr. Ewing asked if that creates a conflict of interest for him.

Chairman Hagg said he believes Mr. Ewing being a member of the county commission does not create a conflict, but if Mr. Ewing had testified on behalf of Homestake outside of his official capacity that would create a conflict of interest. Chairman Hagg said he was fine with Mr. Ewing participating in the Homestake post closure bond matter.

Eric Holm presented the five-year update of Homestake Mining Company's post closure bond for Permits 332 and 456.

In May 2006 the Board of Minerals and Environment approved a 100-year post closure period for Homestake and required five-year reviews of the post closure financial assurance for Mine Permits 332 and 456. Previous reviews took place in 2012 and 2017.

In 2022 DANR reviewed and recalculated Homestake's post closure financial assurance during that review period. The post closure bond covers water management and treatment, monitoring, and maintenance of post closure areas.

Staff took a hard look at inflation and discount rates used in the present worth analysis of the calculation. The concerns were over current high inflation rates and whether appropriate discount rates are being used in the calculation. In November 2022, Homestake asked Barrick's financial advisor, Verus, to analyze inflation and discount rates. In February 2023 Verus submitted an analysis recommending that a 2.3 percent inflation rate and a five percent discount rate be used for the present worth analysis. The current bond uses a five percent discount rate and a three percent inflation rate.

DANR asked the South Dakota State Investment Council to review the Verus analysis. The State Investment Council disagreed with Verus' 2.3 percent inflation rate based on the Consumer Price Index (CPI). During their research, the State Investment Council found that reclamation and water treatment inflation has historically exceeded CPI by one percent. After their analysis, the State Investment Council recommended a 3.3 percent inflation rate.

Darci Haug, State Investment Council, provided information regarding industry specific inflation data alternatives the State Investment Council reviewed for the Homestake post closure bond calculation.

Mr. Holm stated that the State Investment Council found that the five percent discount rate is not feasible without taking a credit risk for which there is no backstop. Any forfeited financial assurance is placed into the Cash Flow Fund in the State Treasury. Under SDCL 4-5-28, there are certain policies that are listed that the State Investment Council has to follow when it invests money that is placed in the Cash Flow Fund. The State Investment Council has to not only weigh the return of the investment but also the amount of risk that is involved in that particular investment.

The State Investment Council looked at a 30-year US Treasury Bond rate at the end of February 2023, which was four percent and had a lower credit risk. The State Investment Council recommended a four percent discount rate.

Matt Clark, State Investment Council, provided information regarding the reasons the State Investment Council recommended the four percent discount rate.

Mr. Holm reported that on March 28, 2023, a Teams meeting took place between DANR, the South Dakota State Investment Council, Homestake and Verus to discuss the State Investment Council's review of the Verus analysis. Following the meeting, DANR informed Homestake

that the State Investment Council's four percent discount rate and 3.3 percent inflation rate would be used.

On April 13, 2023, DANR sent Homestake a revised post closure financial assurance calculation using the four percent discount rate and 3.3 percent inflation rate. Homestake requested another look at the inflation and discount rates. DANR honored the request with the provision that Homestake respond to the department by July 31, 2023.

On July 25, 2023, Homestake requested that the discount rate be changed to 4.2 percent and that the inflation rate be changed to three percent with the provision that the inflation and discount rates be reviewed every three years. The South Dakota Investment Council reviewed and agreed to Homestake's request.

Mr. Holm requested approval of an update to Homestake's post closure financial assurance, using the 4.2 percent discount and three percent inflation rates. The period of post closure has been reduced to 83 years and ends in 2105. Credit was given to Homestake for activities completed up to year 17. Homestake's actual water treatment and maintenance costs were used in the calculation for the financial assurance amount.

The updated financial assurance for 2023 is \$80,201,732. The current financial assurance is \$61,271,809. For 2023, additional financial assurance in the amount of \$18,929,923 is needed. The reasons for the large increase are the reduction of the discount rate from five percent to 4.2 percent which resulted in approximately \$17.5 million of the increase. Also, increases in, labor, heavy equipment, seed, water treatment, water sampling and analysis costs due to inflation contributed to the increase.

The post closure financial assurance assumptions were based on perpetual water treatment calculations which were developed by other state and federal agencies. A present worth analysis of annual costs was applied and adjusted for inflation. The post closure bond is the sum of all the present worths. Mr. Holm noted that water treatment ends in adjusted year 83 based on modeling results.

Annual operation and maintenance costs include the East Waste Rock Depository slope and road maintenance, the Open Cut East Waste Dump stability monitoring, a site caretaker and water sampler, weed control, a vehicle every 10 years, and vehicle fuel and maintenance.

In year 2091 (adjusted post closure year 69), there is a \$1,000,000 contingency to cover water treatment in the Open Cut. Based on the current model, the Open Cut would eventually fill with water if the underground lab ever shut down. The model indicates that water quality will be good and will not require treatment. However, DANR wanted the \$1,000,000 contingency to cover water treatment in the year 2091, in the event it is needed.

Mr. Holm also discussed the operation and maintenance annual indirect costs, water treatment costs and indirect costs, annual monitoring costs and indirect costs, and office costs and indirect costs.

Mr. Holm noted that since LAC's water treatment plant is controlled remotely at Homestake's Blacktail Treatment Plant, plant manager and operator costs are covered under Homestake's post closure financial assurance.

Mr. Holm stated that we need to determine a lump sum amount that, if deposited today, will cover the post closure costs for 83 years. A present worth analysis will determine a present value in today's dollars for a future value, which is the inflated value.

Mr. Holm discussed the formula used for future value to calculate the inflation costs and the formula used for the present worth analysis. Year one of the adjusted post closure period is year 18 of the project period. Escalation and present worth factors begin at year 18 or are adjusted the first year of the post closure period after the year 1 through 17 credit is applied.

Mr. Holm discussed an example of the present worth analysis and the formula used for the present worth analysis. The face value in year 2023 is \$80,201,732. He discussed the face amount in years 2024 through 2027. In 2027 another five-year review will be performed.

After the board approves the amount of the updated post closure financial assurance, Homestake will submit a surety bond rider with the new amount. The surety bond rider will be presented to the board for approval at its next meeting.

DENR recommended the board approve the increase in Homestake's post closure financial assurance for 2023 from \$61,271,809 to \$80,201,732.

Mr. Holm and Jeff Burich answered questions from the board members regarding the post closure bond, long-term water treatment costs, and the stability of the Open Cut East Waste Dump.

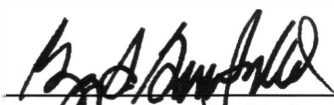
Motion by Ewing, seconded by Karpen to approve the increase in Homestake Mining Company's post closure bond for Permits 332 and 456 for 2023 from \$61,271,809 to \$80,201,732. A roll call vote was taken, and the motion carried unanimously.

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

LAURIE SCHULTZ ORAL BIOGRAPHY: Laurie Schultz provided a personal biography.

NEXT MEETING: The next meeting is scheduled for November 16, 2023.

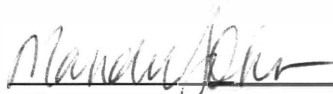
ADJOURN: Motion by Karpen, seconded by Schultz, to adjourn the meeting. A roll call vote was taken, and the motion carried unanimously.



Secretary, Board of Minerals
and Environment

11/10/23

Date



Witness Date

Consent Calendar
South Dakota Board of Minerals & Environment

October 19, 2023

<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 & Surety:</u>					
Kilby Trucking Faith, SD	02-749	749001	\$500	State Bank of Eagle Butte, Eagle Butte S1/2 Section 12; T8N-R14E, Meade County	Release liability and \$500.
Floyd Morrison Mitchell, SD	06-827	827001	\$500 \$500	Palace City Federal Credit Union, Mitchell Fulton State Bank, Mitchell N1/2 Section 22 & N1/2 Section 23; T104N-R60W, Davison County	Release liability and \$1,000.
John Oban Roscoe, SD	03-769	769001	\$500	First National Bank, Pierre NE1/4 Section 9; T122N-R73W, Edmunds County	Release liability and \$500.
William J. Sutton Burke, SD	06-830	830001	\$1,000	First Fidelity Bank, Burke SE1/4 Section 12; T97N-R70W, Gregory County	Release liability and \$1,000.

Consent Calendar
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<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 & Surety:</u>					
Matthew R. Vogel Aberdeen, SD	13-956		\$1,000	First State Bank, Aberdeen	Release liability and \$1,000
		956001	SW1/4 Section 18; T121N-R64W, Brown County		
<u>Transfer of Liability & Release of Surety:</u>					
Gregory Schimkat Naperville, IL	11-927		\$1,000	Farmers State Bank, Marion	Transfer liability and release \$1,000.
		927001	E1/2 Section 20; T100N-R53W, Turner County		
Transfer to:					
Rechnagel Construction, Inc. Hurley, SD	83-135		\$20,000	United Fire & Casualty Company	
<u>Transfer of Liability:</u>					
Lyman County Highway Department Kennebec, SD	83-215		EXEMPT	NA	Transfer liability.
		215008	SW1/4 Section 21; T106N-R71W, Lyman County		
Transfer to:					
Cherie & Cody Lafferty Reliance, SD	93-480		\$3,500	BankWest, Gregory	

Consent Calendar
South Dakota Board of Minerals & Environment

October 19, 2023

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<u>Release of Liability:</u>					
Bawek Construction Grenville, SD	83-121		\$20,000	Bank of Hoven, Conde	Release liability.
		121003		W1/2 SW1/4, SE1/4 SW1/4 Section 10; T120N-R59W, Day County	
		121005		NW1/4 Section 12; T119N-R59W, Clark County	
Fisher Sand & Gravel Company Dickinson, ND	83-54		\$20,000	Liberty Mutual Insurance Company	Release liability.
		54030		W1/2 NW1/4 Section 19; T8N-R6E, Butte County	
Wayne Swenson Watertown, SD	01-715		\$2,000	DNB National Bank, Clear Lake	Release liability.
		715001		NE1/4 SE1/4 Section 9; T117N-R50W, Deuel County	
Miner County Highway Department Howard, SD	83-177		EXEMPT	NA	Release liability.
		177022		S1/2 Section 15; T105N-R57W, Miner County	

South Dakota Board of Minerals & Environment

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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>Five-Year Update of Post Closure Financial Assurance:</u>				
Homestake Mining Company Central City, SD	332 & 456	\$61,271,809	Federal Insurance Company	Increase the Post Closure bond amount to \$80,201,732.