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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

November 21, 2019  
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 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, Doyle Karpen, Daryl Englund, Bob Morris, and John Scheetz.

BOARD MEMBERS ABSENT: Jessica Peterson.

OTHERS PRESENT: Mike Lees, Eric Holm, Roberta Hudson, Tom Cline, and Bret Graves, DENR Minerals and Mining Program; Kyrik Rombough and Barb Regynski, DENR Air Quality Program; and Clint Beck and Danielle Wiebers, Pete Lien & Sons.

APPROVAL OF MINUTES FROM OCTOBER 17, 2019, MEETING: Motion by Karpen, seconded by Blumhardt, to approve the minutes from the October 17, 2019, 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 and surety, transfers of liability, and releases of liability (see attachment).

Tom Cline answered a question from Mr. Morris about the \$20,000 statewide surety that covers multiple sites.

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

REQUEST TO EXTEND PERIOD OF FINAL RECLAMATION AFTER COMPLETION OF MINING FOR PETE LIEN & SONS, INC., PERMIT 57:

Eric Holm reported that Pete Lien & Sons completed mining at its Rapid City Quarry covered under Large Scale Mine Permit 57 in 2004. SDCL 45-6B-46 requires an operator to complete final reclamation of a mine site within five years after completion of mining, unless extended by the Board of Minerals and Environment upon finding that additional time is necessary for completion of the terms of the reclamation plan. Since Pete Lien was still backfilling mined-out pit areas with waste material from the crusher and bag house dust from its Lime Plant in 2009, the company asked the board for a five-year extension of the reclamation period.

On June 23, 2009, the board granted Pete Lien a five-year extension of the reclamation period until December 31, 2014. In 2014, Pete Lien asked for a second five-year extension for the same reasons as in 2009. On November 20, 2014, the board granted Pete Lien a five-year extension of the reclamation period until December 31, 2019.

Since the extension was granted, Pete Lien continues to backfill the mined-out pit areas and reclaim areas within the mine permit boundary. Over the last five years, the former laydown yard and surrounding areas have been reclaimed as planned.

Since 2014, Pete Lien has reclaimed 16 acres. In 2020, another 11.34 graded acres are scheduled to be seeded, and another 3.92 acres will be reclaimed. Mr. Holm noted that a map of the area was included in the board packet. Staff evaluated several reclaimed areas, which are shown on the map, during inspections in 2018 and 2019 and determined they meet release criteria. Pete Lien plans to request that the board approve partial release of reclamation liability for these areas sometime in 2020.

The quarry also includes a limestone crushing and screening plant with an associated material stockpile area and a lime plant that processes material conveyed from Pete Lien's Black Hawk Quarry, which is mined under Mine License 83-100. The estimated life of the Black Hawk Quarry is 50 years. Mr. Holm stated that since these facilities are used exclusively for construction aggregate and lime, which are the materials covered under the mine license and SDCL 45-6, the department has been in discussions with Pete Lien about transferring these facilities to Mine License 83-100.

On October 7, 2019, Pete Lien sent a letter to the department requesting that the board approve a third five-year extension of the reclamation period to complete pit backfilling and reclamation of settling ponds and rubble cells.

The department recommended that the board approve the five-year extension of the reclamation period until December 31, 2024.

Responding to a question from Mr. Landguth, Kyrik Rombough answered that Pete Lien & Sons has not had any violations of the Air Quality Standards, but he could not speak to any violations of the Mine Permit.

Clint Beck, Environmental Coordinator, Pete Lien & Sons, stated that he does not have any records of Air Quality Standards violations of the Air Quality Standards or the Mine Permit.

Mr. Karpen stated that this is the third request for an extension. He asked if the reclamation could be completed in three years rather than five years.

Mr. Beck said Pete Lien has continued to reclaim areas within the permit boundary. The five-year extension would allow time for Pete Lien & Sons to work with DENR on transferring the mine permit to the mine license. This will also allow time to reclaim any land that is left over from that transfer.

Mr. Karpen asked if Pete Lien and Sons plans to continue requesting five-year extensions in the future.

Mr. Holm stated that the goal within the next five years is to transfer the mine permit to the mine license and to finish any reclamation that is left after the mine permit is transferred.

In response to questions from Mr. Morris, Mr. Holm stated that Mine Permit 57 was one of the first mine permits issued by the board in the 1970's. The permit was originally issued under SDCL 45-6A, then it was converted to SDCL 45-6B in the 1980's. In 2004, Pete Lien ceased mining because, under the mine permit, there was nothing else to mine at that quarry. At that point, final reclamation activities began.

Mr. Morris asked if the department is satisfied that Pete Lien & Sons has been working in a diligent manner to meet the reclamation requirement, and that the five-year time extensions are needed because of the scope of the project rather than lack of diligence. Mr. Holm answered that the main reason for the time extension is because of the scope of the project. Reclamation started off slowly, but in the last five years a lot of progress has been made to get the site reclaimed.

Responding to a question from Mr. Morris, Mr. Holm stated that during the next five years, reclamation will continue. The remainder of the reclamation would be completed under Mine License 83-100.

Mr. Beck stated that in the Pennington County Comprehensive Plan the land under this permit is zoned for heavy industrial.

Chairman Hagg asked if there is a plan that outlines markers of what is going to be done and when it will be done, so the board can be assured that reclamation is progressing in a reasonable manner during the next five years.

Mr. Holm stated that during the next five years he will continue working with Pete Lien & Sons to set markers to get as much reclaimed as possible. At the end of the five years, any remaining reclamation that is needed will be conducted at a future date under the mine license.

Mr. Beck added to Mr. Holm's comment, stating that Pete Lien & Sons' plan is to transfer areas that will not be reclaimed under Mine Permit 57 to the mine license in 2020.

Chairman Hagg encouraged Pete Lien & Sons to work with Mr. Holm to set reasonable markers for completion of the reclamation. Mr. Holm stated that the department will do whatever it can to make sure there are no more time extensions for the reclamation.

Mr. Englund asked if the department is comfortable that the surety amount is adequate to cover the liability. Mr. Holm stated that the bond is currently \$204,300. That amount will be reviewed, and the new bond amount will be based on what areas are transferred to the mine license.

Chairman Hagg asked if the department's position is that the five-year extension is necessary to complete the reclamation and that progress will continue to be made with adequate bond coverage. Mr. Holm answered yes.

In response to a question from Mr. Scheetz, Mr. Beck stated that Pete Lien & Sons has a stormwater plan in place, which is periodically inspected by DENR. Mr. Beck answered several questions from Mr. Scheetz about the permit boundaries, reclamation, and water quality in a pit that is being backfilled.

Mr. Scheetz asked if Pete Lien & Sons has a post-closure bond. Mr. Holm stated that at the time Pete Lien & Sons requests release of liability, the department will determine whether a post-closure bond is required.

Chairman Hagg requested that Pete Lien & Sons meet with DENR to develop markers for completion of the reclamation. Chairman Hagg asked that within six months staff bring the agreed upon plan for markers to the board for review.

Motion by Karpen, seconded by Englund, to grant Pete Lien & Sons, Inc. a five-year extension to extend reclamation activities under Permit 57 until 2024. A roll call vote was taken, and the motion carried unanimously.

VW MITIGATION PLAN ANNUAL UPDATE: Barb Regynski, DENR Air Quality Program, provided the annual update on South Dakota's Volkswagen Beneficiary Mitigation Plan.

Volkswagen manufactured diesel automobiles that cheated their emission controls. As part of a court settlement, Volkswagen was required to set up an environmental trust fund to be used to offset the excess pollution. South Dakota's allocation of the trust was \$8,125,000.

In order to use the money, a plan outlining how the money would be spent needed to be submitted to the trustee. DENR developed a draft plan using public input.

The board approved the mitigation plan in August 2018, and the plan was submitted to the trustee. At that meeting, the board requested that staff provide an annual update on how the plan is progressing.

In March 2019, Governor Noem signed the bill giving spending authority to VW trust funds. There were 10 specific categories the funds could be used for. Ms. Regynski discussed each of the categories and the funding amount for each category as shown in the following table.

<u>Category</u>	<u>Funding %</u>	<u>Eligible Mitigation Action</u>	<u>Amount</u>
1/6	50	Class 8 & Class 4-7 Local Freight Trucks	\$4,062,500
2	10	Class 4-8 Buses	\$812,500
9	5	Light Duty ZEV Supply Equipment	\$406,250
10	25	DERA Option	\$2,031,250
Admin	10	Administrative Costs	\$812,500
TOTALS	100		\$8,125,000

Buses – VW Category 2 and C10 Diesel Emission Reduction Act (DERA Option)

The State Clean Diesel Grant Program provides rebates for replacing old diesel buses with new cleaner buses. The two-year grant cycle closes December 31. In this grant cycle DERA funds, VW C10 funds, DERA bonus funds, VW C2 funds, and VW admin funds were used. During the two-year grant cycle, rebate agreements were made for 52 new buses. Eleven of these were propane buses.

A new two-year grant cycle opened in October and applications are currently being accepted.

The advantage of using VW C10 (DERA Option) funds is that the C10 funds can be used to meet the state’s nonfederal voluntary match. In meeting the voluntary match equal to the base allocation offered by EPA, EPA will provide a bonus equal to 50 percent of the base allocation.

Ms. Regynski stated that approximately \$1,400,000 was available for the two-year cycle. The department received more applications than the funding available, so there were six applications that did not get funded. Those six had submitted multiple applications and they did receive at least one bus in this cycle.

Trucks – VW C1 and C6

The state VW Truck Rebate Program provides rebates for replacing old medium and heavy duty diesel trucks with new, cleaner trucks.

Before the program started, the department issued a press release and talked to state agencies, the South Dakota Municipal League, the South Dakota Association of County Commissioners, and the South Dakota Association of Towns and Townships. The project was opened to state and local governmental agencies in August 2019. The only application received was from the South Dakota Housing Development Authority to purchase a house-moving truck. The 20 percent rebate to the Housing Development Authority was \$36,255. Ms. Regynski noted that she believes there was lack of awareness and budgeting and timing issues. Talking with some of the larger cities, Ms. Regynski learned that their fiscal year runs on a January to December cycle, so opening the grant cycle in August was not the best time of year to open the cycle. Also, since there was a lot of flooding this year, instead of spending money on replacing vehicles, they were spending money on flooding issues.

The department plans to open the next round in January and is hoping for more participation.

Electric Vehicle Charging Stations – VW C9

Rapid City, Brookings, and Vermillion have expressed interest in the program. Ms. Regynski has had meetings with East River Electric and Black Hills Energy. They are not as interested in doing a project, but more of providing support. The department plans to open a program next spring. At this time South Dakota has 53 ports at nine locations for fast charges and 65 ports at 36 locations for Level 2 charging, but 92 percent of those chargers are for Tesla.

At this time, the department is not planning to make any changes to the plan. Depending on how things progress during this next year, the plan will be reassessed at a later date. Staff will provide an annual update to the board next fall.

The information about the program is located on the DENR website at <http://denr.sd.gov/des/aq/aaVW.aspx>.

Responding to a question from Mr. Morris, Ms. Regynski stated that, to date, approximately \$500,000 has been spent from Category 10 and \$90,000 from Category 2.

In response to a question from Chairman Hagg, Ms. Regynski stated that the department has until 2027 to use the trust fund money. Between Mitchell and Rapid City, there are charging stations in Murdo and Pierre. In regard to tracking the sale of electric cars, Ms. Regynski said there is a website that can be used to track the number of electric vehicles and charging stations for each state. The money in all of the categories for the Volkswagen Trust is to be used for vehicles except the charging station category.

No board action was required.

PUBLIC COMMENT PERIOD: There were no public comments.

NEXT MEETING: The next meeting is January 16, 2020.

ADJOURN: Motion by Landguth, seconded by Greenfield, that the meeting be adjourned. A Roll call vote was taken, and the motion carried unanimously.

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date

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

**November 21, 2019**

<u>License Holder</u>	<u>License No.</u>	<u>Site No.</u>	<u>Surety Amount</u>	<u>Surety Company or Bank</u>	<u>DENR Recommendation</u>
<b><u>Release of Liability &amp; Surety:</u></b>					
JH Crushing Inc. Belle Fourche, SD	10-903	<b>903002</b>	\$2,500	First Interstate Bank, Belle Fourche NE1/4 Section 4; T8N-R4E, Butte County	Release liability and \$2,500.
<b><u>Transfers of Liability:</u></b>					
Pinnacle Land Company, LLC Sturgis, SD	11-913	<b>913001</b>	\$1,000	First Interstate Bank, Sturgis S1/2 NE1/4 Section 8; T5N-R5E, Meade County	Transfer liability.
Transfer to: Severson Dirt Works, LLC Sturgis, SD	19-1056		\$500	First National Bank, Sturgis	
Rogers Construction Inc. Sturgis, SD	15-988	<b>988002</b> <b>988003</b>	\$20,000	United Fire & Casualty Company S1/2 SE1/4 Section 33; T6N-R6E and N1/2 NE1/4 Section 4; T5N-R6E, Meade County Section 7; T6N-R6E, Meade County	Transfer liability.
Transfer to: Meade County Highway Department Sturgis, SD	83-113		EXEMPT	NA	

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**South Dakota Board of Minerals & Environment**

**November 21, 2019**

<u>License Holder</u>	<u>License No.</u>	<u>Site No.</u>	<u>Surety Amount</u>	<u>Surety Company or Bank</u>	<u>DENR Recommendation</u>
<b><u>Releases of Liability:</u></b>					
TF Luke & Sons Inc. Kimball, SD	83-11	<b>11067</b>	\$20,000	Western Surety Company NW1/4 Section 20; T105N-R68W, Brule County	Release liability.
Matthaei Excavating Inc. Canistota, SD	04-786	<b>786003</b>	\$3,000	First National Bank, Sioux Falls Section 1; T101N-R55W, McCook County	Release liability.
Morris Inc. Pierre, SD	83-2	<b>2040</b>	\$20,000	Travelers Casualty & Surety Company of America SE1/4 Section 10; T8N-R15E, Meade County	Release liability.
R & J Gravel & Trucking Chamberlain, SD	07-841	<b>841009</b>	\$20,000	Sun Surety Insurance Company NE1/4 Section 30; T107N-R71W, Buffalo County	Release liability.



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

**November 21, 2019**

<u>License Holder</u>	<u>License No.</u>	<u>Site No.</u>	<u>Surety Amount</u>	<u>Surety Company or Bank</u>	<u>DENR Recommendation</u>
<b><u>Releases of Liability:</u></b>					
Skeide Graveling Webster, SD	83-13		\$20,000	Dacotah Bank, Webster	Release liability.
		<b>13002</b>	W1/2 NE1/4 Section 36; T120N-R55W, Day County		
		<b>13003</b>	SW1/4 Section 27; T123N-R53W, Day County		
		<b>13004</b>	NW1/4 Section 3; T122N-R53W, Day County		
Fredlund Township Lodgepole, SD	97-619		EXEMPT	NA	Release liability.
		<b>619001</b>	NW1/4 Section 21; T20N-R12E, Perkins County		
DOT – Rapid City Region Rapid City, SD	83-10		EXEMPT	NA	Release liability.
		<b>10255</b>	SW1/4 NW1/4 Section 26; T23N-R14E, Perkins County		

# South Dakota Board of Minerals & Environment

November 21, 2019

<u>Permit Holder</u>	<u>Permit No.</u>	<u>Surety Amount</u>	<u>Surety Company or Bank</u>	<u>DENR Recommendation</u>
<b><u>Request to Extend Period of Final Reclamation After Completion of Mining:</u></b>				
Pete Lien & Sons, Inc. Rapid City, SD	57	\$204,300	UMB Bank, Kansas City, MO	Grant Pete Lien & Sons, Inc. a 5-year extension to extend reclamation activities under Permit 57 until 2024.

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