

The audio recording and agenda/packet for this meeting are 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

February 18, 2021  
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.

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

BOARD MEMBERS ABSENT: None.

OTHERS: Eric Holm, Tom Cline, Roberta Hudson, Minerals and Mining Program; Mark Tieszen, Homestake Mining Company; Amy Allen, Coeur Mining; and Crystal Hocking, RESPEC.

APPROVAL OF MINUTES FROM DECEMBER 17, 2020, MEETING: Motion by Karpen, seconded by Blumhardt, to approve the minutes of the December 17, 2020, Board of Minerals and Environment meeting. A roll call vote was taken, and the motion carried unanimously.

LEGISLATIVE UPDATE: Roberta Hudson provided a summary of the following legislative bills:

HB 1027 – Act to allow appointment of a prehearing officer and define the duties of the prehearing officer.

- Clarifies in state law the WMB may appoint a prehearing officer
- Provides for appeal of prehearing officer's ruling to the WMB
- Provides for prehearing officer to defer ruling to WMB

HB 1028 – Act to modify requirements and criteria for issuance of a water right permit

- Establish who may file a petition to oppose an application for a water right permit
- Allow comments to be filed by any interested person
- Set timeframe in which petitions and comments may be filed
- Amending criteria to approve an application to only matters falling within the WMB's regulatory authority

HB 1029 – Act to require a permit to conduct mining operations for certain ore milling facilities

- Modifies SDCL 45-6B so stand-alone ore milling facilities utilizing cyanide or other chemical/biological leaching processes are subject to the same environmental permitting requirements as ore milling facilities used at permitted mines.

- Expands the definition of “mining operation” to include stand-alone ore milling facilities that utilize chemical or biological processes
- Ensure adequate safeguards are in place to protect human health and natural resources from potentially significant impacts associated with cyanide leach milling, tailings disposal and other types of stand-alone ore milling activities.

Chairman Hagg asked if there were any legislative bills pertaining to the Department of Environment and Natural Resources and Department of Agriculture merger. Ms. Hudson answered that there were no bills pertaining to the merger.

Mr. Scheetz asked if there have been any conversations regarding modifying the requirements for public noticing a final landfill permit renewal. Ms. Hudson stated that she does not believe any legislative bills were submitted regarding this matter.

MINING ISSUES CONSENT CALENDAR: Prior to the meeting, the board received a table listing the department recommendations for release of liability and surety and release of liability (see attachment).

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

ANNUAL UPDATE OF POST-CLOSURE FINANCIAL ASSURANCE FOR HOMESTAKE MINING COMPANY, PERMITS 332 AND 456, AND LAC MINERALS (USA) LLC, PERMIT 445:

Homestake Mining Company Permits 332 and 456

Eric Holm reported that in the May 18, 2006, order regarding the post-closure financial assurance for Mine Permits 332 and 456, it states the financial assurance shall be automatically extended for periods of one year. At the time of each annual extension, the face value of the financial assurance shall be adjusted to the bonding schedule set by the board in 2006 and updated in 2012 and 2018.

For 2020, the face value of the surety bond that serves as the post-closure financial assurance is required to be \$59,607,847. This is an increase from the \$58,041,218, which was submitted last year. For the increase, Homestake submitted a rider to Surety Bond No. 82336310, Federal Insurance Company, which increases the amount to the new face value. Federal Insurance Company is licensed in South Dakota and is on the US Department of Treasury list of approved surety companies. Ratings for the company from AM Best, Standard and Poor’s, Moody’s, and Fitch’s are superior, very strong, high quality, and very high credit, respectively, and all outlooks are stable.

Staff recommended that the board accept the rider to Surety Bond No. 82336310, Federal Insurance Company, to increase the post-closure financial assurance amount to \$59,607,847.

Mr. Scheetz asked if inflation is the reason for increasing the bond. Mr. Holm stated that every year when staff performs the present worth analysis of the financial assurance, there are annual increases to reflect the discount rate, inflation, and other factors. He stated that staff uses a 3.0 percent inflation

rate and a 5.0 percent discount rate, and that is applied to post-closure bonds for all the large-scale gold mines.

Mr. Scheetz asked if the discount rate is standard industry-wide for other states. Mr. Holm stated that some states use a 6.0 percent discount rate.

Motion by Blumhardt, seconded by Englund, to accept the rider to Surety Bond No. 82336310, Federal Insurance Company, to increase the post-closure financial assurance amount to \$59,607,847 for Homestake Mining Company Permits 332 and 456. A roll call vote was taken, and the motion carried unanimously.

LAC Minerals (USA), LLC, Permit 445

Mr. Morris recused himself from participating in this matter.

Mr. Holm stated that in the post-closure conditions for Mine Permit No. 445, which were approved by the board on January 21, 2016, it states the financial assurance shall be automatically extended for periods of one year. At the time of each annual extension, the face value of the financial assurance shall be adjusted to the bonding schedule set by the board in 2016.

For 2021, the face value of the surety bond that serves as the post-closure financial assurance is required to be \$20,340,567. This is a decrease from the \$21,789,741 amount which was submitted last year. For the decrease, LAC Minerals submitted a rider to Surety Bond No. 09177703, Fidelity & Deposit Company of Maryland and Zurich American Insurance Company, which decreases the amount to the new face value. Both surety companies are licensed in South Dakota and are listed on the US Department of Treasury's list of approved surety companies. Ratings for both companies from AM Best, Standard and Poor's, and Moody's are superior, very strong, and high quality, respectively. Outlooks are stable to positive.

As part of the January 21, 2016 conditions approved by the board, the department is required to do reviews of LAC Minerals' post-closure bond beginning in 2021 and every five years thereafter in order to recalculate and update the bond. The department will begin its review this month, with a revised post-closure bond anticipated for board approval before the end of 2021 or in early 2022.

Staff recommended that the board accept the rider to Surety Bond No. 09177703, Fidelity & Deposit Company of Maryland and Zurich American Insurance Company, to decrease the post-closure financial assurance amount to \$20,340,567.

Chairman Hagg asked why the financial assurance amount decreased. Mr. Holm stated that the reason for decrease is that there are no aquatic/biologic monitoring costs this year. Every other year the cost is approximately \$25,000 for each, and with the associated decrease in indirect costs and discounting costs applied, that causes a decrease for this year. Next year the amount will increase again, depending on results of the five-year review this year.

In response to a question from Mr. Scheetz, Mr. Holm stated that the department has been doing audits at LAC Minerals for the past five years, and the department receives annual reports from LAC. He said everything seems to be stabilizing and there are no drastic movements in water quality trends. Mr.

Holm stated that at this time the department is comfortable with the decreased financial assurance amount.

Chairman Hagg asked if SDCL 45-6B-27 is applicable when the department is doing the five-year review. Mr. Holm stated that it is applicable, but either the board or the department, at any time between those five-year periods, can adjust the bond amount if there are concerns with or problems at the mine.

Motion by Karpen, seconded by Scheetz, to accept the rider to Surety Bond No. 09177703, Fidelity & Deposit Company of Maryland and Zurich American Insurance Company, to decrease the post-closure financial assurance amount to \$20,340,567 for LAC Minerals (USA), LLC Permit 445. A roll call vote was taken, and the motion carried with Blumhardt, Englund, Greenfield, Karpen, Landguth, Peterson, Scheetz, and Hagg voting aye. Morris abstained.

WHARF RESOURCES (USA), INC. REQUEST FOR APPROVAL OF ITS SOCIOECONOMIC CONTRACTOR FOR A LARGE-SCALE MINE PERMIT APPLICATION PURSUANT TO SDCL 45-6B-33.1: Ms. Hudson reported that Wharf Resources has requested board approval of Dr. Michael Madden as its socioeconomic contractor. The company is applying for a large-scale mine permit for a gold mine located approximately six miles west of Lead, SD.

Under the mining statutes, an applicant for a large-scale mine 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 its 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.

Ms. Hudson noted that a copy of Dr. Madden's resume was included in the packet that was sent to the board prior to the meeting.

Motion by Morris, seconded by Peterson, to approve Dr. Michael Madden as socioeconomic contractor for Wharf Resources (USA), Inc. for a large-scale mine permit application pursuant to SDCL 45-6B-33.1. A roll call vote was taken, and the motion carried unanimously.

PUBLIC COMMENT PERIOD: There were no public comments.

NEXT MEETING: The next meeting is scheduled for April 15, 2021.

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

 \_\_\_\_\_  
Secretary Date 4/18/21

 \_\_\_\_\_  
Witness Date 4/18/21

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

**February 18, 2021**

<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 and Surety:</u></b>					
Myrl & Roy's Paving, Inc. Sioux Falls, SD	83-95	<b>95008</b>	\$20,000	Great American Insurance Company SW1/4 Section 20; T95N-R55W, Yankton County	Release liability and \$20,000.
<b><u>Release of Liability:</u></b>					
Ziebach County Highway Department Dupree, SD	83-246	<b>246023</b>	EXEMPT	NA SE1/4 Section 7; T14N-R20E, Ziebach County	Release liability.

**South Dakota Board of Minerals & Environment**

**February 18, 2021**

<u>Permit Holder</u>	<u>Permit No.</u>	<u>Surety Amount</u>	<u>Surety Company or Bank</u>	<u>DENR Recommendation</u>
<b><u>Annual Update of Post Closure Financial Assurance:</u></b>				
Homestake Mining Company Central City, SD	332 & 456	\$58,041,218	Federal Insurance Company	Accept rider to Bond No. 82336310, Federal Insurance Company, increasing the Post Closure Financial Assurance amount to \$59,607,847.
LAC Minerals (USA), LLC Central City, SD	445	\$21,789,741	Fidelity & Deposit Company of Maryland  Zurich American Insurance Company	Accept rider to Bond No. 09177703, Fidelity & Deposit Company of Maryland and Zurich American Insurance Company, decreasing the Post Closure Financial Assurance amount to \$20,340,567.