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

May 16, 2024
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, Bob Ewing, Gary Haag, Doyle Karpen, Bob Morris, and Laurie Schultz.

BOARD MEMBERS ABSENT: Jessica Gruenwald and Gregg Greenfield.

OTHERS PRESENT: Mike Lees, Roberta Hudson, Eric Holm, Bret Graves, Tom Cline, DANR Minerals, Mining, and Superfund Program; Steve Kropp and Nick Burke, DANR Waste Management Program; Patrick Malone, Jerry Aberle, and Timm Comer, DTRC, LLC; Mark Tieszen, Homestake Mining Company/Richmond Hill; Stephanie Kuntz, Marsh; and Matt Zietlow, Wharf Resources.

APPROVAL OF MINUTES FROM MARCH 21, 2024, MEETING: Motion by Blumhardt, seconded by Ewing, to approve the minutes from the March 21, 2024, Board of Minerals and Environment meeting. A roll call vote was taken, and the motion carried unanimously.

APPOINT HEARING CHAIR AND SET HEARING DATE IN THE MATTER OF THE PERMIT APPLICATION OF THE CITY OF MADISON TO OPERATE AND CONSTRUCT A RESTRICTED USE SOLID WASTE SITE: Chairman Hagg appointed Glenn Blumhardt as hearing chair for this matter. The board members concurred with holding the hearing on July 18, 2024, in Pierre.

An Order will be prepared appointing Mr. Blumhardt as hearing chair and setting a July 18, 2024, hearing date.

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 release of liability and surety and transfer of liability. (See attachment)

Tom Cline with the Minerals, Mining, and Superfund Program was available for questions from the board. There were no questions.

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

ACCEPTANCE OF FINANCIAL ASSURANCE INCREASE FOR WHARF RESOURCES (USA), INC., LARGE SCALE MINE PERMITS 356, 434, 435, 464, 476, AND 490: Eric Holm noted that Matt Zietlow with Wharf, and Stephanie Kuntz with Marsh, were on the phone to answer questions.

Mr. Holm presented the board with an adjustment of the financial assurance amount for Wharf Resources. This financial assurance, also known as the cyanide spill bond, is required under SDCL 45-6B-20.1 and covers costs to the state for responding to, and remediating accidental releases of, cyanide and other leaching agents at the Wharf site. This financial assurance is in addition to Wharf Resources' \$72.15 million reclamation bond and \$42.69 million postclosure bond.

The department adjusted the financial assurance for inflation and calculated a revised amount of \$825,700 which is an increase of \$18,400 from the 2023 update. The Construction Cost Index in the Engineering News Record was used to calculate the inflationary increase in the bond.

To cover the increase, Wharf has submitted a rider to the Siriuspoint America Insurance Company surety bond that currently serves as financial assurance which increases the amount to \$825,700. Siriuspoint America Insurance 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 excellent, strong, upper medium grade, and high credit quality, respectively. All outlooks are stable.

The department recommended the board accept the rider to Bond No. SPA153047_002, Siriuspoint America Insurance Company, increasing the financial assurance bond from \$807,300 to \$825,700.

There were no questions from the board.

Motion by Morris, seconded by Karpen, to accept the rider to Bond No. SPA153047_002, Siriuspoint America Insurance Company, increasing the financial assurance bond from \$807,300 to \$825,700. A roll call vote was taken, and the motion carried unanimously.

DISCOUNT RATE UPDATE OF POST CLOSURE FINANCIAL ASSURANCE FOR WHARF RESOURCES (USA), INC., LARGE SCALE MINE PERMITS 356, 434, 435, 464, 476, AND 490: Mr. Holm noted the Mr. Zietlow and Ms. Marsh were available to answer questions.

In October 2023 the board approved lowering the discount rate from 5 percent to 4.2 percent for the postclosure financial assurance for Homestake's Mine Permits 332 and 456.

In March 2024 the board approved lowering the discount rate to 4.2 percent for the postclosure financial assurance for Homestake's Mine Permit 445.

Mr. Holm stated that the department is now requesting that the board approve lowering the discount rate from 5 percent to 4.2 percent for Wharf Resources' postclosure financial assurance. This is the last postclosure financial assurance that needs to have the discount rate adjusted.

As a result of the discount rate adjustment, the face value of Wharf's postclosure financial assurance is required to be \$52,689,000. This is an increase of \$10,003,400 from the current \$42,685,600 amount. To cover the increase, Wharf Resources submitted Surety Bond No. ES00017792 from Everest Reinsurance Company in the amount of \$10,003,400. Everest Reinsurance Company is licensed in South Dakota and is on the US Department of Treasury's list of approved surety companies. Ratings for the company from AM Best, Standard and Poor's, and Moody's are superior, strong, and upper medium quality, respectively. Outlooks are stable.

Staff recommended the board accept Surety Bond No. ES00017792, Everest Reinsurance Company, in the amount of \$10,003,400, increasing the postclosure bond amount to \$52,689,000.

In response to a question from Mr. Morris, Mr. Holm stated that prior to this increase, the amount of the surety bond was \$42,685,600. Wharf has submitted several surety bonds to cover the total surety amount. Everest Reinsurance Company is submitting the additional \$10,003,400 surety. A review of the postclosure surety amount for Homestake's three mine permits is done on a yearly basis. The next review of Wharf Resources' postclosure surety amount will likely be done next year after review of the updated water treatment costs.

Motion by Morris, seconded by Karpen, to accept Surety Bond No. ES00017792, Everest Reinsurance Company, in the amount of \$10,003,400, increasing the postclosure bond amount to \$52,689,000 for Wharf Resources Large Scale Mine Permits 356, 434, 435, 464, 476, and 490. Motion carried unanimously.

RELEASE OF RECLAMATION LIABILITY FOR B4TIME, EXNI-408: Mr. Holm reported that on April 16, 2020, the Board of Minerals and Environment forfeited the \$1,000 surety posted by B4Time for its mineral exploration activities under EXNI-408. The board directed the forfeited surety be given to the US Forest Service to complete reclamation of the site. At that time, the board did not release B4Time's reclamation liability for the site. It was the board's intent to consider releasing reclamation liability at the time the department and the Forest Service verified that reclamation had been completed.

On June 5, 2020, the Minerals, Mining and Superfund Program received a \$1,000 check from TruStar Federal Credit Union which constituted the proceeds of the forfeited certificate of deposit. The Minerals, Mining and Superfund Program sent the check to the Forest Service. The Forest Service began reclamation of the site on September 14, 2020.

Mr. Holm discussed slides showing the B4Time Mine Reclamation Project. The slides can be viewed at <https://boardsandcommissions.sd.gov/bcuploads/5-16-2024%20BME%20Packet.pdf>

In discussions with Jonathan Manning of the US Forest Service, he confirmed that the reclamation of the area disturbed by B4Time is complete and satisfactory according to US Forest Service standards. Staff agreed with the Forest Service assessment, and since reclamation has been completed, the department's recommendation is to release B4Time, LLC's reclamation liability and close the file.

In response to a question from Ms. Schultz regarding the \$1,000 surety, Mr. Holm stated that the Forest Service did not share the cost of reclamation with the department. Mr. Haag, a former Forest Service employee, stated that the Forest Service construction maintenance crew did the reclamation at a very low cost.

Motion by Ewing, seconded by Karpen, to release reclamation liability for B4Time, LLC EXNI-408. A roll call vote was taken, and the motion carried unanimously.

ORAL MINING REPORTS: The annual oral mining reports were presented to the board by representatives of the large-scale gold mining companies. The representatives reported on water treatment, production, and reclamation activities during 2023 and plans for 2024. The annual oral mining presentations are required by statute.

Mark Tieszen presented the annual reports for Homestake Mining Company's Mine Permits 332, 445, and 456.

Matt Zietlow presented the annual report for Wharf Resources.

Timm Comer presented the annual report for DTRC, LLC.

UPDATE ON BROHM EPA SUPERFUND SITE: Roberta Hudson, DANR Minerals, Mining, and Superfund Program, presented the annual update for the Brohm Superfund site and answered questions from the board.

The slide presentations for the oral mining reports and Brohm EPA Superfund Site are available at <https://boardsandcommissions.sd.gov/bcuploads/5-16-2024%20BME%20Packet.pdf>

ANNUAL UPDATE OF PRELIMINARY LIST OF SPECIAL, EXCEPTIONAL, CRITICAL, OR UNIQUE LANDS: Mr. Holm stated that under ARSD 74:29:10:19, the board is required to annually hold a hearing to consider any petitions received to nominate lands to the Preliminary List of Special, Exceptional, Critical, or Unique Lands.

Under ARSD 74:29:10:17(4), DANR publishes an annual notice to solicit petitions to add areas to the preliminary list. The notice was published on February 1, 2024, in the Sioux Falls Argus Leader, Black Hills Pioneer, and Rapid City Journal. Affidavits of publication were received from all newspapers.

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On January 25, 2024, the South Dakota Department of Tourism, the Department of Game, Fish, and Parks, the Department of Education and Cultural Affairs, and the Archaeological Research Center were also invited to submit nominating petitions.

The deadline for submittal of petitions to nominate areas to preliminary list was May 1, 2024. No nominating petitions were submitted.

No board action was necessary.

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

NEXT MEETING: The next meeting is scheduled for July 18, 2024, at the Foss Building Matthew Training Center in Pierre, and is tentatively scheduled as an in-person meeting. Some agenda items include routine mining issues, a contested case hearing in the matter of the permit application of the city of Madison to operate and construct a restricted use solid waste site, and possibly an oil and gas enforcement matter.

Chairman Hagg stated that his term will expire June 30, 2024. He has declined reappointment to the board but has agreed to serve until the Governor appoints his replacement.

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

Secretary, Board of Minerals and Environment Date

Witness Date

May 16, 2024

License Holder **License No.** **Site No.** **Surety Amount** **Surety Company or Bank** **DANR Recommendation**

Release of Liability & Surety:

Wipf Excavating, LLC 23-1120 **1120001** \$2,500 American Bank & Trust
Huron, SD SW1/4 Section 28; T111N-R65W Beadle County Release liability and \$2,500.

Transfer of Liability:

Aggregate Construction, 89-382 **382044** \$20,000 Ohio Farmers Insurance Transfer liability.
Inc. Section 27 and SE1/4 Section 21; T6N-R16E
Minot, ND Meade County Westfield Center, OH

Transfer to:

James L. Feist 24-1135 \$1,000 Bankwest
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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>Acceptance of Financial Assurance for Wharf Resources (USA), Inc.:</u>				
Wharf Resources (USA), Inc. Lead, SD	356, 434, 435, 464, 476, & 490	\$807,300	Siriuspoint America Insurance Company	Accept rider to Bond No. SPA153047_002, Siriuspoint America Insurance Company, increasing the Financial Assurance amount to \$825,700.
<u>Discount Rate Update of Post Closure Financial Assurance:</u>				
Wharf Resources (USA), Inc. Lead, SD	356, 434, 435, 464, 476, & 490	\$10,003,400	Everest Reinsurance Company	Accept Bond No. ES00017792, Everest Reinsurance Company, in the amount of \$10,003,400 increasing the post closure bond amount to \$52,689,000.
<u>Release of Reclamation Liability:</u>				
B4Time, LLC Bemidji, MN	EXNI-408	\$0	\$1,000 surety forfeited and sent to US Forest Service April 16, 2020, to complete reclamation	Release B4Time's reclamation liability and close file.